

111TH CONGRESS
1ST SESSION

H. R. 847

To amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2009

Mrs. MALONEY (for herself, Mr. NADLER of New York, Mr. KING of New York, Mr. McMAHON, Mr. RANGEL, Mr. ACKERMAN, Mr. ARCURI, Mr. BISHOP of New York, Mr. BURGESS, Mr. CROWLEY, Mr. ENGEL, Mr. HALL of New York, Mr. HIGGINS, Mr. HIMES, Mr. HINCHEY, Mr. ISRAEL, Mr. LEE of New York, Mrs. LOWEY, Mr. MAFFEI, Mr. MASSA, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Mr. MCHUGH, Mr. MEEKS of New York, Mr. PASCRELL, Mr. SERRANO, Ms. SUTTON, Mr. TONKO, Mr. TOWNS, Mr. WEINER, Ms. WOOLSEY, and Ms. CLARKE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “James Zadroga 9/11 Health and Compensation Act of
 4 2009”.

5 (b) TABLE OF CONTENTS.—The table of contents of
 6 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—WORLD TRADE CENTER HEALTH PROGRAM

Sec. 101. World Trade Center Health Program.

“TITLE XXX—WORLD TRADE CENTER HEALTH PROGRAM

“Subtitle A—Establishment of Program; Advisory and Steering Committees

“Sec. 3001. Establishment of World Trade Center Health Program within
 NIOSH.

“Sec. 3002. WTC Health Program Scientific/Technical Advisory Com-
 mittee.

“Sec. 3003. WTC Health Program Steering Committees.

“Sec. 3004. Community education and outreach.

“Sec. 3005. Uniform data collection.

“Sec. 3006. Centers of excellence.

“Sec. 3007. Entitlement authorities.

“Sec. 3008. Definitions.

“Subtitle B—Program of Monitoring, Initial Health Evaluations, and
 Treatment

“PART 1—FOR WTC RESPONDERS

“Sec. 3011. Identification of eligible WTC responders and provision of
 WTC-related monitoring services.

“Sec. 3012. Treatment of certified eligible WTC responders for WTC-re-
 lated health conditions.

“PART 2—COMMUNITY PROGRAM

“Sec. 3021. Identification and initial health evaluation of eligible WTC
 community members.

“Sec. 3022. Followup monitoring and treatment of certified eligible WTC
 community members for WTC-related health conditions.

“Sec. 3023. Followup monitoring and treatment of other individuals with
 WTC-related health conditions.

“PART 3—NATIONAL ARRANGEMENT FOR BENEFITS FOR ELIGIBLE
 INDIVIDUALS OUTSIDE NEW YORK

“Sec. 3031. National arrangement for benefits for eligible individuals outside New York.

“Subtitle C—Research Into Conditions

“Sec. 3041. Research regarding certain health conditions related to September 11 terrorist attacks in New York City.

“Subtitle D—Programs of the New York City Department of Health and Mental Hygiene

“Sec. 3051. World Trade Center Health Registry.

“Sec. 3052. Mental health services.

TITLE II—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

Sec. 201. Definitions.

Sec. 202. Extended and expanded eligibility for compensation.

Sec. 203. Requirement to update regulations.

Sec. 204. Limited liability for certain claims.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Thousands of rescue workers who responded
4 to the areas devastated by the terrorist attacks of
5 September 11, local residents, office and area work-
6 ers, and school children continue to suffer significant
7 medical problems as a result of compromised air
8 quality and the release of other toxins from the at-
9 tack sites.

10 (2) In a September 2006 peer-reviewed study
11 conducted by the World Trade Center Medical Moni-
12 toring Program, of 9,500 World Trade Center re-
13 sponders, almost 70 percent of World Trade Center
14 responders had a new or worsened respiratory symp-
15 tom that developed during or after their time work-
16 ing at the World Trade Center; among the respond-

1 ers who were asymptomatic before 9/11, 61 percent
2 developed respiratory symptoms while working at the
3 World Trade Center; close to 60 percent still had a
4 new or worsened respiratory symptom at the time of
5 their examination; one-third had abnormal pul-
6 monary function tests; and severe respiratory condi-
7 tions including pneumonia were significantly more
8 common in the 6 months after 9/11 than in the
9 prior 6 months.

10 (3) An April 2006 study documented that, on
11 average, a New York City firefighter who responded
12 to the World Trade Center has experienced a loss of
13 12 years of lung capacity.

14 (4) A peer-reviewed study of residents who lived
15 near the World Trade Center titled “The World
16 Trade Center Residents’ Respiratory Health Study:
17 New Onset Respiratory Symptoms and Pulmonary
18 Function”, found that data demonstrated a three-
19 fold increase in new-onset, persistent lower res-
20 piratory symptoms in residents near the former
21 World Trade Center as compared to a control popu-
22 lation.

23 (5) Previous research on the health impacts of
24 the devastation caused by the September 11 terrorist
25 attacks has shown relationships between the air

1 quality from Ground Zero and a host of health im-
2 pacts, including lower pregnancy rates, higher rates
3 of respiratory and lung disorders, and a variety of
4 post-disaster mental health conditions (including
5 posttraumatic stress disorder) in workers and resi-
6 dents near Ground Zero.

7 (6) A variety of tests conducted by independent
8 scientists have concluded that significant WTC con-
9 tamination settled in indoor environments sur-
10 rounding the disaster site. The Environmental Pro-
11 tection Agency's (EPA) cleanup programs for indoor
12 residential spaces, in 2003 and 2005, though lim-
13 ited, are an acknowledgment that indoor contamina-
14 tion continued after the WTC attacks.

15 (7) At the request of the Department of En-
16 ergy, the Davis DELTA Group at the University of
17 California conducted outdoor dust sampling in Octo-
18 ber 2001 at Varick and Houston Streets (approx-
19 imately 1.2 miles north of Ground Zero) and found
20 that the contamination from the World Trade Cen-
21 ter "outdid even the worst pollution from the Ku-
22 wait oil fields fires". Further, the United States Ge-
23 ological Survey (USGS) reported on November 27,
24 2001, that dust samples collected from indoor sur-

1 faces registered at levels that were “as caustic as
2 liquid drain cleaners”.

3 (8) According to both the EPA’s own Inspector
4 General’s (EPA IG) report of August 21, 2003 and
5 General Accountability Offices’s (GAO) report of
6 September 2007, no comprehensive program has
7 ever been conducted in order to characterize the full
8 extent of WTC contamination, and therefore the full
9 impact of that contamination—geographic or other-
10 wise—remains unknown.

11 (9) Such reports found that there has never
12 been a comprehensive program to remediate WTC
13 toxins from indoor spaces. Thus, area residents,
14 workers and students may continue to be exposed to
15 WTC contamination in their homes, workplaces and
16 schools.

17 (10) Because of the failure to release federally
18 appropriated funds for community care, a lack of
19 sufficient outreach, the fact that many community
20 members are receiving care from physicians outside
21 the current City-funded World Trade Center Envi-
22 ronmental Health Center program and thus fall out-
23 side data collection efforts, and other factors, the
24 number of community members being treated at the
25 World Trade Center Environmental Health Center

1 underrepresents the total number in the community
2 that have been affected by exposure to Ground Zero
3 toxins.

4 (11) Research by Columbia University's Center
5 for Children's Environmental Health has shown neg-
6 ative health effects on babies born to women living
7 within 2 miles of the World Trade Center in the
8 month following 9/11.

9 (12) Federal funding allocated for the moni-
10 toring of rescue workers' health is not sufficient to
11 ensure the long-term study of health impacts of Sep-
12 tember 11.

13 (13) A significant portion of those who have de-
14 veloped health problems as result of exposures to
15 airborne toxins or other hazards resulting from the
16 September 11, 2001, attacks on the World Trade
17 Center have no health insurance, have lost their
18 health insurance as a result of the attacks, or have
19 inadequate health insurance.

20 (14) The Federal program to provide medical
21 treatments to those who responded to the September
22 11 aftermath, and who continue to experience health
23 problems as a result, was finally established more
24 than five years after the attacks, but has no certain
25 long-term funding.

1 (15) Rescue workers and volunteers seeking
2 workers' compensation have reported that their ap-
3 plications have been denied, delayed for months, or
4 redirected, instead of receiving assistance in a timely
5 and supportive manner.

6 (16) A February 2007 report released by the
7 City of New York estimated that approximately
8 410,000 people were the most heavily exposed to the
9 environmental hazards and trauma of the September
10 11 terrorist attacks. More than 30 percent of the
11 Fire Department of the City of New York first re-
12 sponders were still experiencing some respiratory
13 symptoms more than five years after the attacks and
14 according to the report, 59 percent of those seen by
15 the WTC Environmental Health Center at Bellevue
16 Hospital (which serves community members) are
17 without insurance and 65 percent have incomes less
18 than \$15,000 per year. The report also found a need
19 to continue and expand mental health services.

20 (17) Since the 5th anniversary of the attack
21 (September 11, 2006), hundreds of workers a month
22 have been signing up with the monitoring and treat-
23 ment programs.

24 (18) In April 2008, the Department of Health
25 and Human Services reported to Congress that in

1 fiscal year 2007 11,359 patients received medical
2 treatment in the existing WTC Responder Medical
3 and Treatment program for WTC-related health
4 problems, and that number of responders who need
5 treatment and the severity of health problems is ex-
6 pected to increase.

7 (19) The September 11 Victim Compensation
8 Fund of 2001 was established to provide compensa-
9 tion to individuals who were physically injured or
10 killed as a result of the terrorist-related aircraft
11 crashes of September 11, 2001.

12 (20) The deadline for filing claims for com-
13 pensation under the Victim Compensation Fund was
14 December 22, 2003.

15 (21) Some individuals did not know they were
16 eligible to file claims for compensation for injuries or
17 did not know they had suffered physical harm as a
18 result of the terrorist-related aircraft crashes until
19 after the December 22, 2003, deadline.

20 (22) Further research is needed to evaluate
21 more comprehensively the extent of the health im-
22 pacts of September 11, including research for
23 emerging health problems such as cancer, which
24 have been predicted.

1 (23) Research is needed regarding possible
2 treatment for the illnesses and injuries of September
3 11.

4 (24) The Federal response to medical and fi-
5 nancial issues arising from the September 11 re-
6 sponse efforts needs a comprehensive, coordinated
7 long-term response in order to meet the needs of all
8 the individuals who were exposed to the toxins of
9 Ground Zero and are suffering health problems from
10 the disaster.

11 (25) The failure to extend the appointment of
12 Dr. John Howard as Director of the National Insti-
13 tute for Occupational Safety and Health in July
14 2008 is not in the interests of the administration of
15 such Institute nor the continued operation of the
16 World Trade Center Medical Monitoring and Treat-
17 ment Program which he has headed, and the Sec-
18 retary of Health and Human Services should recon-
19 sider extending such appointment.

20 **TITLE I—WORLD TRADE CENTER**
21 **HEALTH PROGRAM**

22 **SEC. 101. WORLD TRADE CENTER HEALTH PROGRAM.**

23 The Public Health Service Act is amended by adding
24 at the end the following new title:

1 **“TITLE XXX—WORLD TRADE**
2 **CENTER HEALTH PROGRAM**
3 **“Subtitle A—Establishment of Pro-**
4 **gram; Advisory and Steering**
5 **Committees**

6 **“SEC. 3001. ESTABLISHMENT OF WORLD TRADE CENTER**
7 **HEALTH PROGRAM WITHIN NIOSH.**

8 “(a) IN GENERAL.—There is hereby established with-
9 in the National Institute for Occupational Safety and
10 Health a program to be known as the ‘World Trade Center
11 Health Program’ (in this title referred to as the ‘WTC
12 program’) to provide—

13 “(1) medical monitoring and treatment benefits
14 to eligible emergency responders and recovery and
15 clean-up workers (including those who are Federal
16 employees) who responded to the September 11,
17 2001, terrorist attacks on the World Trade Center;
18 and

19 “(2) initial health evaluation, monitoring, and
20 treatment benefits to residents and other building
21 occupants and area workers in New York City who
22 were directly impacted and adversely affected by
23 such attacks.

24 “(b) COMPONENTS OF PROGRAM.—The WTC pro-
25 gram includes the following components:

1 “(1) MEDICAL MONITORING FOR RESPOND-
2 ERS.—Medical monitoring under section 3011, in-
3 cluding clinical examinations and long-term health
4 monitoring and analysis for individuals who were
5 likely to have been exposed to airborne toxins that
6 were released, or to other hazards, as a result of the
7 September 11, 2001, terrorist attacks on the World
8 Trade Center.

9 “(2) INITIAL HEALTH EVALUATION FOR COM-
10 MUNITY MEMBERS.—An initial health evaluation
11 under section 3021, including an evaluation to deter-
12 mine eligibility for followup monitoring and treat-
13 ment.

14 “(3) FOLLOW-UP MONITORING AND TREAT-
15 MENT FOR WTC-RELATED CONDITIONS FOR RE-
16 SPONDERS AND COMMUNITY MEMBERS.—Provision
17 under sections 3012, 3022, and 3023 of follow-up
18 monitoring and treatment and payment, subject to
19 the provisions of subsection (d), for all medically
20 necessary health and mental health care expenses
21 (including necessary prescription drugs) of individ-
22 uals with a WTC-related health condition.

23 “(4) OUTREACH.—Establishment under section
24 3004 of an outreach program to potentially eligible
25 individuals concerning the benefits under this title.

1 “(5) UNIFORM DATA COLLECTION.—Collection
2 under section 3005 of health and mental health data
3 on individuals receiving monitoring or treatment
4 benefits, using a uniform system of data collection.

5 “(6) RESEARCH ON WTC CONDITIONS.—Estab-
6 lishment under subtitle C of a research program on
7 health conditions resulting from the September 11,
8 2001, terrorist attacks on the World Trade Center.

9 “(c) NO COST-SHARING.—Monitoring and treatment
10 benefits and initial health evaluation benefits are provided
11 under subtitle B without any deductibles, copayments, or
12 other cost-sharing to an eligible WTC responder or any
13 eligible WTC community member.

14 “(d) PAYOR.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graphs (2) and (3), the cost of monitoring and treat-
17 ment benefits and initial health evaluation benefits
18 provided under subtitle B shall be paid for by the
19 WTC program.

20 “(2) WORKERS’ COMPENSATION PAYMENT.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), payment for treatment
23 under subtitle B of a WTC-related condition in
24 an individual that is work-related shall be re-
25 duced or recouped to the extent that the Sec-

1 retary determines that payment has been made,
2 or can reasonably be expected to be made,
3 under a workers' compensation law or plan of
4 the United States or a State, or other work-re-
5 lated injury or illness benefit plan of the em-
6 ployer of such individual, for such treatment.
7 The provisions of clauses (iii), (iv), (v), and (vi)
8 of paragraph (2)(B) of section 1862(b) of the
9 Social Security Act (42 U.S.C. 1395y(b)(2))
10 and paragraph (3) of such section shall apply to
11 the recoupment under this paragraph of a pay-
12 ment to the WTC program with respect to a
13 workers' compensation law or plan, or other
14 work-related injury or illness plan of the em-
15 ployer involved, and such individual in the same
16 manner as such provisions apply to the reim-
17 bursement of a payment under section
18 1862(b)(2) of such Act to the Secretary, with
19 respect to such a law or plan and an individual
20 entitled to benefits under title XVIII of such
21 Act.

22 “(B) EXCEPTION.—If the WTC Program
23 Administrator certifies that the City of New
24 York has contributed the matching contribution
25 required under section 3006(a)(3) for a 12-

1 month period (specified by the WTC Program
2 Administrator), subparagraph (A) shall not
3 apply for that 12-month period with respect to
4 a workers' compensation law or plan, including
5 line of duty compensation, to which the City is
6 obligated to make payments.

7 “(3) HEALTH INSURANCE COVERAGE.—

8 “(A) IN GENERAL.—In the case of an indi-
9 vidual who has a WTC-related condition that is
10 not work-related and has health coverage for
11 such condition through any public or private
12 health plan, the provisions of section 1862(b) of
13 the Social Security Act (42 U.S.C. 1395y(b))
14 shall apply to such a health plan and such indi-
15 vidual in the same manner as they apply to a
16 group health plan and an individual entitled to
17 benefits under title XVIII of such Act pursuant
18 to section 226(a). Any costs for items and serv-
19 ices covered under such plan that are not reim-
20 bursed by such health plan, due to the applica-
21 tion of deductibles, copayments, coinsurance,
22 other cost-sharing, or otherwise, are reimburs-
23 able under this title to the extent that they are
24 covered under the WTC program.

1 “(B) RECOVERY BY INDIVIDUAL PRO-
2 VIDERS.—Nothing in subparagraph (A) shall be
3 construed as requiring an entity providing mon-
4 itoring and treatment under this title to seek
5 reimbursement under a health plan with which
6 the entity has no contract for reimbursement.

7 “(4) WORK-RELATED DESCRIBED.—For the
8 purposes of this subsection, a WTC-related condition
9 shall be treated as a condition that is work-related
10 if—

11 “(A) the condition is diagnosed in an eligi-
12 ble WTC responder, or in an individual who
13 qualifies as an eligible WTC community mem-
14 ber on the basis of being a rescue, recovery, or
15 clean-up worker; or

16 “(B) with respect to the condition the indi-
17 vidual has filed and had established a claim
18 under a workers’ compensation law or plan of
19 the United States or a State, or other work-re-
20 lated injury or illness benefit plan of the em-
21 ployer of such individual.

22 “(e) QUALITY ASSURANCE AND MONITORING OF
23 CLINICAL EXPENDITURES.—

24 “(1) QUALITY ASSURANCE.—The WTC Pro-
25 gram Administrator working with the Clinical Cen-

1 ters of Excellence shall develop and implement a
2 quality assurance program for the medical moni-
3 toring and treatment delivered by such Centers of
4 Excellence and any other participating health care
5 providers. Such program shall include—

6 “(A) adherence to medical monitoring and
7 treatment protocols;

8 “(B) appropriate diagnostic and treatment
9 referrals for participants;

10 “(C) prompt communication of test results
11 to participants; and

12 “(D) such other elements as the Adminis-
13 trator specifies in consultation with the Clinical
14 Centers of Excellence.

15 “(2) FRAUD PREVENTION.—The WTC Program
16 Administrator shall develop and implement a pro-
17 gram to review the program’s health care expendi-
18 tures to detect fraudulent or duplicate billing and
19 payment for inappropriate services. Such program
20 shall be similar to current methods used in connec-
21 tion with the Medicare program under title XVIII of
22 the Social Security Act. This title is a Federal
23 health care program (as defined in section 1128B(f)
24 of such Act) and is a health plan (as defined in sec-

1 tion 1128C(c) of such Act) for purposes of applying
2 sections 1128 through 1128E of such Act.

3 “(f) WTC PROGRAM ADMINISTRATION.—The WTC
4 program shall be administered by the Director of the Na-
5 tional Institute for Occupational Safety and Health, or a
6 designee of such Director.

7 “(g) ANNUAL PROGRAM REPORT.—

8 “(1) IN GENERAL.—Not later than 6 months
9 after the end of each fiscal year in which the WTC
10 program is in operation, the WTC Program Admin-
11 istrator shall submit an annual report to the Con-
12 gress on the operations of this title for such fiscal
13 year and for the entire period of operation of the
14 program.

15 “(2) CONTENTS OF REPORT.—Each annual re-
16 port under paragraph (1) shall include the following:

17 “(A) ELIGIBLE INDIVIDUALS.—Informa-
18 tion for each clinical program described in para-
19 graph (3)—

20 “(i) on the number of individuals who
21 applied for certification under subtitle B
22 and the number of such individuals who
23 were so certified;

24 “(ii) of the individuals who were cer-
25 tified, on the number who received medical

1 monitoring under the program and the
2 number of such individuals who received
3 medical treatment under the program;

4 “(iii) with respect to individuals so
5 certified who received such treatment, on
6 the WTC-related health conditions for
7 which they were treated; and

8 “(iv) on the projected number of indi-
9 viduals who will be certified under subtitle
10 B in the succeeding fiscal year.

11 “(B) MONITORING, INITIAL HEALTH EVAL-
12 UATION, AND TREATMENT COSTS.—For each
13 clinical program so described—

14 “(i) information on the costs of moni-
15 toring and initial health evaluation and the
16 costs of treatment and on the estimated
17 costs of such monitoring, evaluation, and
18 treatment in the succeeding fiscal year;
19 and

20 “(ii) an estimate of the cost of med-
21 ical treatment for WTC-related conditions
22 that have been paid for or reimbursed by
23 workers’ compensation, by public or private
24 health plans, or by the City of New York
25 under section 3012(c)(4).

1 “(C) ADMINISTRATIVE COSTS.—Informa-
2 tion on the cost of administering the program,
3 including costs of program support, data collec-
4 tion and analysis, and research conducted under
5 the program.

6 “(D) ADMINISTRATIVE EXPERIENCE.—In-
7 formation on the administrative performance of
8 the program, including—

9 “(i) the performance of the program
10 in providing timely evaluation of and treat-
11 ment to eligible individuals; and

12 “(ii) a list of the Clinical Centers of
13 Excellence and other providers that are
14 participating in the program.

15 “(E) SCIENTIFIC REPORTS.—A summary
16 of the findings of any new scientific reports or
17 studies on the health effects associated with
18 WTC center exposures, including the findings
19 of research conducted under section 3041(a).

20 “(F) ADVISORY COMMITTEE REC-
21 COMMENDATIONS.—A list of recommendations by
22 the WTC Scientific/Technical Advisory Com-
23 mittee on additional WTC program eligibility
24 criteria and on additional WTC-related health
25 conditions and the action of the WTC Program

1 Administrator concerning each such rec-
2 ommendation.

3 “(3) SEPARATE CLINICAL PROGRAMS DE-
4 SCRIBED.—In paragraph (2), each of the following
5 shall be treated as a separate clinical program of the
6 WTC program:

7 “(A) FDNY RESPONDERS.—The benefits
8 provided for eligible WTC responders described
9 in section 3006(b)(1)(A).

10 “(B) OTHER ELIGIBLE WTC RESPOND-
11 ERS.—The benefits provided for eligible WTC
12 responders not described in subparagraph (A).

13 “(C) ELIGIBLE WTC COMMUNITY MEM-
14 BERS.—The benefits provided for eligible WTC
15 community members in section 3006(b)(1)(C).

16 “(h) NOTIFICATION TO CONGRESS WHEN REACH 80
17 PERCENT OF ELIGIBILITY NUMERICAL LIMITS.—The
18 WTC Program Administrator shall promptly notify the
19 Congress—

20 “(1) when the number of certifications for eligi-
21 ble WTC responders subject to the limit established
22 under section 3011(a)(5) has reached 80 percent of
23 such limit; and

24 “(2) when the number of certifications for eligi-
25 ble WTC community members subject to the limit

1 established under section 3021(a)(5) has reached 80
2 percent of such limit.

3 “(i) GAO REPORT.—Not later than 3 years after the
4 date of the enactment of this Act, the Comptroller General
5 of the United States shall submit to the Congress a report
6 on the costs of the monitoring and treatment programs
7 provided under this title.

8 “(j) NYC RECOMMENDATIONS.—The City of New
9 York may make recommendations to the WTC Program
10 Administrator on ways to improve the monitoring and
11 treatment programs under this title for both eligible WTC
12 responders and eligible WTC community members.

13 **“SEC. 3002. WTC HEALTH PROGRAM SCIENTIFIC/TECH-**
14 **NICAL ADVISORY COMMITTEE.**

15 “(a) ESTABLISHMENT.—The WTC Program Admin-
16 istrator shall establish an advisory committee to be known
17 as the WTC Health Program Scientific/Technical Advisory
18 Committee (in this section referred to as the ‘Advisory
19 Committee’) to review scientific and medical evidence and
20 to make recommendations to the Administrator on addi-
21 tional WTC program eligibility criteria and on additional
22 WTC-related health conditions.

23 “(b) COMPOSITION.—The WTC Program Adminis-
24 trator shall appoint the members of the Advisory Com-
25 mittee and shall include at least—

1 “(1) 4 occupational physicians, at least two of
2 whom have experience treating WTC rescue and re-
3 covery workers;

4 “(2) 1 physician with expertise in pulmonary
5 medicine;

6 “(3) 2 environmental medicine or environmental
7 health specialists;

8 “(4) 2 representatives of eligible WTC respond-
9 ers;

10 “(5) 2 representatives of WTC community
11 members;

12 “(6) an industrial hygienist;

13 “(7) a toxicologist;

14 “(8) an epidemiologist; and

15 “(9) a mental health professional.

16 “(c) MEETINGS.—The Advisory Committee shall
17 meet at such frequency as may be required to carry out
18 its duties.

19 “(d) REPORTS.—The WTC Program Administrator
20 shall provide for publication of recommendations of the
21 Advisory Committee on the public website established for
22 the WTC program.

23 “(e) AUTHORIZATION OF APPROPRIATIONS.—For the
24 purpose of carrying out this section, there are authorized
25 to be appropriated such sums as may be necessary, not

1 to exceed \$100,000, for each fiscal year beginning with
2 fiscal year 2009.

3 “(f) DURATION.—Notwithstanding any other provi-
4 sion of law, the Advisory Committee shall continue in op-
5 eration during the period in which the WTC program is
6 in operation.

7 “(g) APPLICATION OF FACA.—Except as otherwise
8 specifically provided, the Advisory Committee shall be sub-
9 ject to the Federal Advisory Committee Act.

10 **“SEC. 3003. WTC HEALTH PROGRAM STEERING COMMIT-**
11 **TEES.**

12 “(a) ESTABLISHMENT.—The WTC Program Admin-
13 istrator shall establish two steering committees (each in
14 this section referred to as a ‘Steering Committee’) as fol-
15 lows:

16 “(1) WTC RESPONDERS STEERING COM-
17 MITTEE.—One steering committee, to be known as
18 the WTC Responders Steering Committee, for the
19 purpose of facilitating the coordination of medical
20 monitoring and treatment programs for the eligible
21 WTC responders under part 1 of subtitle B.

22 “(2) WTC COMMUNITY PROGRAM STEERING
23 COMMITTEE.—One steering committee, to be known
24 as the WTC Community Program Steering Com-
25 mittee, for the purpose of facilitating the coordina-

tion of initial health evaluations, monitoring, and treatment programs for eligible WTC community members under part 2 of subtitle B.

“(b) MEMBERSHIP.—

“(1) INITIAL MEMBERSHIP OF WTC RESPONDERS STEERING COMMITTEE.—The WTC Responders Steering Committee shall initially be composed of members of the WTC Monitoring and Treatment Program Steering Committee (as in existence on the day before the date of the enactment of this title). In addition, the committee membership shall include—

“(A) a representative of the Police Commissioner of the City of New York;

“(B) a representative of the Department of Health of the City of New York;

“(C) a representative of another agency of the City of New York, selected by the Mayor of New York City, which had a large number of non-uniformed City workers who responded to the WTC disaster; and

“(D) three representatives of eligible WTC responders;

in order that eligible WTC responders constitute half the members of the Steering Committee.

1 “(2) INITIAL MEMBERSHIP OF WTC COMMUNITY
2 PROGRAM STEERING COMMITTEE.—

3 “(A) IN GENERAL.—The WTC Community
4 Program Steering Committee shall initially be
5 composed of members of the WTC Environ-
6 mental Health Center Community Advisory
7 Committee (as in existence on the day before
8 the date of the enactment of this title) and shall
9 initially have, as voting members, the following:

10 “(i) 11 representatives of the affected
11 populations of residents, students, area
12 workers, and other community members.

13 “(ii) The Medical Director of the
14 WTC Environmental Health Center.

15 “(iii) The Executive Director of the
16 WTC Environmental Health Center.

17 “(iv) Three physicians, one each rep-
18 resenting the three WTC Environmental
19 Health Center treatment sites of Bellevue
20 Hospital Center, Gouverneur Healthcare
21 Services, and Elmhurst Hospital Center.

22 “(v) Five specialists with WTC re-
23 lated expertise or experience in treating
24 non-responder WTC diseases, such as a pe-
25 diatrician, an epidemiologist, a psychiatrist

1 or psychologist, an environmental/occupa-
2 tional specialists or a social worker from a
3 WTC Environmental Health Center treat-
4 ment site, or other relevant specialists.

5 “(vi) A representative of the Depart-
6 ment of Health and Mental Hygiene of the
7 City of New York.

8 “(B) APPOINTMENTS.—

9 “(i) WTC EHC COMMUNITY ADVISORY
10 COMMITTEE.—The WTC Environmental
11 Health Center Community Advisory Com-
12 mittee as in existence on the date of the
13 enactment of this title shall nominate
14 members for positions described in sub-
15 paragraph (A)(i).

16 “(ii) NYC HEALTH AND HOSPITALS
17 CORPORATION.—The New York City
18 Health and Hospitals Corporation shall
19 nominate members for positions described
20 in clauses (iv) and (v) of subparagraph
21 (A).

22 “(iii) TIMING.—Nominations under
23 clauses (i) and (ii) shall be recommended
24 to the WTC Program Administrator not

1 later than 60 days after the date of the en-
2 actment of this title.

3 “(iv) APPOINTMENT.—The WTC Pro-
4 gram Administrator shall appoint members
5 of the WTC Community Program Steering
6 Committee not later than 90 days after the
7 date of the enactment of this title.

8 “(v) GENERAL REPRESENTATIVES.—
9 Of the members appointed under subpara-
10 graph (A)(i)—

11 “(I) the representation shall re-
12 flect the broad and diverse WTC-af-
13 fected populations and constituencies
14 and the diversity of impacted neigh-
15 borhoods, including residents, hard-to-
16 reach populations, students, area
17 workers, school parents, community-
18 based organizations, Community
19 Boards, WTC Environmental Health
20 Center patients, labor unions, and
21 labor advocacy organizations; and

22 “(II) no one individual organiza-
23 tion can have more than one rep-
24 resentative.

1 “(3) ADDITIONAL APPOINTMENTS.—Each
2 Steering Committee may appoint, if approved by a
3 majority of voting members of the Committee, addi-
4 tional members to the Committee.

5 “(4) VACANCIES.—A vacancy in a Steering
6 Committee shall be filled by the Steering Committee,
7 subject to the approval of the WTC Program Ad-
8 ministrator, so long as—

9 “(A) in the case of the WTC Responders
10 Steering Committee, the composition of the
11 Committee includes representatives of eligible
12 WTC responders and representatives of each
13 Clinical Center of Excellence and each Coordi-
14 nating Center of Excellence that serves eligible
15 WTC responders and such composition has eli-
16 gible WTC responders constituting half of the
17 membership of the Steering Committee; or

18 “(B) in the case of the WTC Community
19 Program Steering Committee, the composition
20 of the Committee includes representatives of eli-
21 gible WTC community members and represent-
22 atives of each Clinical Center of Excellence and
23 each Coordinating Center of Excellence that
24 serves eligible WTC community members and

1 the nominating process is consistent with para-
2 graph (2)(B).

3 “(5) CO-CHAIRS OF WTC COMMUNITY PROGRAM
4 STEERING COMMITTEE.—The WTC Community Pro-
5 gram Steering Committee shall have two Co-Chairs
6 as follows:

7 “(A) COMMUNITY/LABOR CO-CHAIR.—A
8 Community/Labor Co-Chair who shall be chosen
9 by the community and labor-based members of
10 the Steering Committee.

11 “(B) ENVIRONMENTAL HEALTH CLINIC
12 CO-CHAIR.—A WTC Environmental Health
13 Clinic Co-Chair who shall be chosen by the
14 WTC Environmental Health Center members
15 on the Steering Committee.

16 “(c) RELATION TO FACCA.—Each Steering Com-
17 mittee shall not be subject to the Federal Advisory Com-
18 mittee Act.

19 “(d) MEETINGS.—Each Steering Committee shall
20 meet at such frequency necessary to carry out its duties,
21 but not less than 4 times each calendar year and at least
22 two such meetings each year shall be a joint meeting with
23 the voting membership of the other Steering Committee
24 for the purpose of exchanging information regarding the
25 WTC program.

1 “(e) DURATION.—Notwithstanding any other provi-
 2 sion of law, each Steering Committee shall continue in op-
 3 eration during the period in which the WTC program is
 4 in operation.

5 **“SEC. 3004. COMMUNITY EDUCATION AND OUTREACH.**

6 “(a) IN GENERAL.—The WTC Program Adminis-
 7 trator shall institute a program that provides education
 8 and outreach on the existence and availability of services
 9 under the WTC program. The outreach and education
 10 program—

11 “(1) shall include—

12 “(A) the establishment of a public website
 13 with information about the WTC program;

14 “(B) meetings with potentially eligible pop-
 15 ulations;

16 “(C) development and dissemination of
 17 outreach materials informing people about the
 18 program; and

19 “(D) the establishment of phone informa-
 20 tion services; and

21 “(2) shall be conducted in a manner intended—

22 “(A) to reach all affected populations; and

23 “(B) to include materials for culturally and
 24 linguistically diverse populations.

1 “(b) PARTNERSHIPS.—To the greatest extent pos-
2 sible, in carrying out this section, the WTC Program Ad-
3 ministrator shall enter into partnerships with local govern-
4 ments and organizations with experience performing out-
5 reach to the affected populations, including community
6 and labor-based organizations.

7 **“SEC. 3005. UNIFORM DATA COLLECTION.**

8 “(a) IN GENERAL.—The WTC Program Adminis-
9 trator shall provide for the uniform collection of data (and
10 analysis of data and regular reports to the Administrator)
11 on the utilization of monitoring and treatment benefits
12 provided to eligible WTC responders and eligible WTC
13 community members, the prevalence of WTC-related
14 health conditions, and the identification of new WTC-re-
15 lated medical conditions. Such data shall be collected for
16 all individuals provided monitoring or treatment benefits
17 under subtitle B and regardless of their place of residence
18 or Clinical Center of Excellence through which the benefits
19 are provided.

20 “(b) COORDINATING THROUGH CENTERS OF EXCEL-
21 LENCE.—Each Clinical Center of Excellence shall collect
22 data described in subsection (a) and report such data to
23 the corresponding Coordinating Center of Excellence for
24 analysis by such Coordinating Center of Excellence.

1 “(c) PRIVACY.—The data collection and analysis
2 under this section shall be conducted in a manner that
3 protects the confidentiality of individually identifiable
4 health information consistent with applicable legal require-
5 ments.

6 **“SEC. 3006. CENTERS OF EXCELLENCE.**

7 “(a) IN GENERAL.—

8 “(1) CONTRACTS WITH CLINICAL CENTERS OF
9 EXCELLENCE.—The WTC Program Administrator
10 shall enter into contracts with Clinical Centers of
11 Excellence specified in subsection (b)(1)—

12 “(A) for the provision of monitoring and
13 treatment benefits and initial health evaluation
14 benefits under subtitle B;

15 “(B) for the provision of outreach activities
16 to individuals eligible for such monitoring and
17 treatment benefits, for initial health evaluation
18 benefits, and for follow-up to individuals who
19 are enrolled in the monitoring program;

20 “(C) for the provision of counseling for
21 benefits under subtitle B, with respect to WTC-
22 related health conditions, for individuals eligible
23 for such benefits;

24 “(D) for the provision of counseling for
25 benefits for WTC-related health conditions that

1 may be available under Workers' Compensation
2 or other benefit programs for work-related inju-
3 ries or illnesses, health insurance, disability in-
4 surance, or other insurance plans or through
5 public or private social service agencies and as-
6 sisting eligible individuals in applying for such
7 benefits;

8 “(E) for the provision of translational and
9 interpretive services as for program participants
10 who are not English language proficient; and

11 “(F) for the collection and reporting of
12 data in accordance with section 3005.

13 “(2) CONTRACTS WITH COORDINATING CEN-
14 TERS OF EXCELLENCE.—The WTC Program Ad-
15 ministrator shall enter into contracts with Coordi-
16 nating Centers of Excellence specified in subsection
17 (b)(2)—

18 “(A) for receiving, analyzing, and report-
19 ing to the WTC Program Administrator on
20 data, in accordance with section 3005, that has
21 been collected and reported to such Coordi-
22 nating Centers by the corresponding Clinical
23 Centers of Excellence under subsection (d)(3);

24 “(B) for the development of medical moni-
25 toring, initial health evaluation, and treatment

1 protocols, with respect to WTC-related health
2 conditions;

3 “(C) for coordinating the outreach activi-
4 ties conducted under paragraph (1)(B) by each
5 corresponding Clinical Center of Excellence;

6 “(D) for establishing criteria for the
7 credentialing of medical providers participating
8 in the nationwide network under section 3031;

9 “(E) for coordinating and administering
10 the activities of the WTC Health Program
11 Steering Committees established under section
12 3003(a); and

13 “(F) for meeting periodically with the cor-
14 responding Clinical Centers of Excellence to ob-
15 tain input on the analysis and reporting of data
16 collected under subparagraph (A) and on the
17 development of medical monitoring, initial
18 health evaluation, and treatment protocols
19 under subparagraph (B).

20 The medical providers under subparagraph (D) shall
21 be selected by the WTC Program Administrator on
22 the basis of their experience treating or diagnosing
23 the medical conditions included in the list of identi-
24 fied WTC-related conditions for responders and of

1 identified WTC-related conditions for community
2 members.

3 “(3) REQUIRED PARTICIPATION BY NEW YORK
4 CITY IN MONITORING AND TREATMENT PROGRAM
5 AND COSTS.—

6 “(A) IN GENERAL.—In order for New
7 York City, any agency or Department thereof,
8 or the New York City Health and Hospitals
9 Corporation to qualify for a contract for the
10 provision of monitoring and treatment benefits
11 and other services under section 3006, New
12 York City is required to contribute a matching
13 amount of 10 percent of the amount of the cov-
14 ered monitoring and treatment payment (as de-
15 fined in subparagraph (B)).

16 “(B) COVERED MONITORING AND TREAT-
17 MENT PAYMENT DEFINED.—For the purposes
18 of this paragraph, the term ‘covered monitoring
19 and treatment payment’ means payment under
20 paragraphs (1) and (2), including under such
21 paragraph as applied under section 3021(b),
22 3022(a), and 3023, and reimbursement under
23 3006(c) for items and services furnished by a
24 Clinical Center of Excellence or Coordinating
25 Center of Excellence, and providers designated

1 by the WTC Program under section 3031, after
2 the application of paragraphs (2) and (3) of
3 section 3001 (d).

4 “(C) PAYMENT OF NEW YORK CITY SHARE
5 OF MONITORING AND TREATMENT COSTS.—The
6 WTC Program Administrator shall—

7 “(i) bill the amount specified in sub-
8 paragraph (A) directly to New York City;
9 and

10 “(ii) certify periodically, for purposes
11 of section 3001(d)(2), whether or not New
12 York City has paid the amount so billed.

13 “(D) LIMITATION ON REQUIRED
14 AMOUNT.—In no case is New York City re-
15 quired under this paragraph to contribute more
16 than a total of \$500,000,000 over any 10-year
17 period.

18 “(b) CENTERS OF EXCELLENCE DEFINED.—

19 “(1) CLINICAL CENTER OF EXCELLENCE.—In
20 this title, the term ‘Clinical Center of Excellence’
21 means the following:

22 “(A) FOR FDNY RESPONDERS.—With re-
23 spect to an eligible WTC responder who re-
24 sponded to the 9/11 attacks as an employee of

1 the Fire Department of the City of New York
2 and who—

3 “(i) is an active employee of such De-
4 partment—

5 “(I) with respect to monitoring,
6 such Fire Department; and

7 “(II) with respect to treatment,
8 such Fire Department (or such entity
9 as has entered into a contract with
10 the Fire Department for treatment of
11 such responders) or any other Clinical
12 Center of Excellence described in sub-
13 paragraph (B), (C), or (D); or

14 “(ii) is not an active employee of such
15 Department, such Fire Department (or
16 such entity as has entered into a contract
17 with the Fire Department for monitoring
18 or treatment of such responders) or any
19 other or any other Clinical Center of Ex-
20 cellence described in subparagraph (B),
21 (C), or (D).

22 “(B) OTHER ELIGIBLE WTC RESPOND-
23 ERS.—With respect to other eligible WTC re-
24 sponders, whether or not they reside in the New
25 York Metropolitan area, the Mt. Sinai coordi-

1 nated consortium, Queens College, State Uni-
2 versity of New York at Stony Brook, University
3 of Medicine and Dentistry of New Jersey, and
4 Bellevue Hospital.

5 “(C) WTC COMMUNITY MEMBERS.—With
6 respect to eligible WTC community members,
7 whether or not they reside in the New York
8 Metropolitan area, the World Trade Center En-
9 vironmental Health Center at Bellevue Hospital
10 and such hospitals or other facilities, including
11 but not limited to those within the New York
12 City Health and Hospitals Corporation, as are
13 identified by the WTC Program Administrator.

14 “(D) ALL ELIGIBLE WTC RESPONDERS
15 AND ELIGIBLE WTC COMMUNITY MEMBERS.—
16 With respect to all eligible WTC responders and
17 eligible WTC community members, such other
18 hospitals or other facilities as are identified by
19 the WTC Program Administrator.

20 The WTC Program Administrator shall limit the
21 number of additional Centers of Excellence identified
22 under subparagraph (D) to ensure that the partici-
23 pating centers have adequate experience in the treat-
24 ment and diagnosis of identified WTC-related med-
25 ical conditions.

1 “(2) COORDINATING CENTER OF EXCEL-
2 LENCE.—In this title, the term ‘Coordinating Center
3 of Excellence’ means the following:

4 “(A) FOR FDNY RESPONDERS.—With re-
5 spect to an eligible WTC responder who re-
6 sponded to the 9/11 attacks as an employee of
7 the Fire Department of the City of New York,
8 such Fire Department.

9 “(B) OTHER WTC RESPONDERS.—With re-
10 spect to other eligible WTC responders, the Mt.
11 Sinai coordinated consortium.

12 “(C) WTC COMMUNITY MEMBERS.—With
13 respect to eligible WTC community members,
14 the World Trade Center Environmental Health
15 Center at Bellevue Hospital.

16 “(3) CORRESPONDING CENTERS.—In this title,
17 a Clinical Center of Excellence and a Coordinating
18 Center of Excellence shall be treated as ‘cor-
19 responding’ to the extent that such Clinical Center
20 and Coordinating Center serve the same population
21 group.

22 “(c) REIMBURSEMENT FOR NON-TREATMENT, NON-
23 MONITORING PROGRAM COSTS.—A Clinical or Coordi-
24 nating Center of Excellence with a contract under this sec-
25 tion shall be reimbursed for the costs of such Center in

1 carrying out the activities described in subsection (a),
2 other than those described in subsection (a)(1)(A), subject
3 to the provisions of section 3001(d), as follows:

4 “(1) CLINICAL CENTERS OF EXCELLENCE.—
5 For carrying out subparagraphs (B) through (F) of
6 subsection (a)(1)—

7 “(A) CLINICAL CENTER FOR FDNY RE-
8 SPONDERS IN NEW YORK.—The Clinical Center
9 of Excellence for FDNY Responders in New
10 York specified in subsection (b)(1)(A) shall be
11 reimbursed—

12 “(i) in the first year of the contract
13 under this section, \$600 per certified eligi-
14 ble WTC responder in the medical treat-
15 ment program, and \$300 per certified eli-
16 gible WTC responder in the monitoring
17 program; and

18 “(ii) in each subsequent contract year,
19 subject to paragraph (3), at the rates spec-
20 ified in this subparagraph for the previous
21 contract year adjusted by the WTC Pro-
22 gram Administrator to reflect the rate of
23 medical care inflation during the previous
24 contract year.

1 “(B) CLINICAL CENTERS SERVING OTHER
2 ELIGIBLE WTC RESPONDERS IN NEW YORK.—A
3 Clinical Center of Excellence for other WTC re-
4 sponders in New York specified in subsection
5 (b)(1)(B) shall be reimbursed the amounts
6 specified in subparagraph (A).

7 “(C) CLINICAL CENTERS SERVING WTC
8 COMMUNITY MEMBERS.—A Clinical Center of
9 Excellence for eligible WTC community mem-
10 bers in New York specified in subsection
11 (b)(1)(C) shall be reimbursed—

12 “(i) in the first year of the contract
13 under this section, for each certified eligi-
14 ble WTC community member in a medical
15 treatment program enrolled at a non-hos-
16 pital-based facility, \$600, and for each cer-
17 tified eligible WTC community member in
18 a medical treatment program enrolled at a
19 hospital-based facility, \$300; and

20 “(ii) in each subsequent contract year,
21 subject to paragraph (3), at the rates spec-
22 ified in this subparagraph for the previous
23 contract year adjusted by the WTC Pro-
24 gram Administrator to reflect the rate of

1 medical care inflation during the previous
2 contract year.

3 “(D) OTHER CLINICAL CENTERS.—A Clin-
4 ical Center of Excellence or other providers not
5 described in a previous subparagraph shall be
6 reimbursed at a rate set by the WTC Program
7 Administrator.

8 “(E) REIMBURSEMENT RULES.—The reim-
9 bursement provided under subparagraphs (A),
10 (B) and (C) shall be made for each certified eli-
11 gible WTC responder and for each WTC com-
12 munity member in the WTC program per year
13 that the member receives such services, regard-
14 less of the volume or cost of services required.

15 “(2) COORDINATING CENTERS OF EXCEL-
16 LENCE.—A Coordinating Centers of Excellence spec-
17 ified in section (a)(2) shall be reimbursed for the
18 provision of services set forth in this section at such
19 levels as are established by the WTC Program Ad-
20 ministrator.

21 “(3) REVIEW OF RATES.—

22 “(A) INITIAL REVIEW.—Before the end of
23 the third contract year of the WTC program,
24 the WTC Program Administrator shall conduct
25 a review to determine whether the reimburse-

1 ment rates set forth in this subsection provide
2 fair and appropriate reimbursement for such
3 program services. Based on such review, the
4 Administrator may, by rule beginning with the
5 fourth contract year, may modify such rates,
6 taking into account a reasonable and fair rate
7 for the services being provided.

8 “(B) SUBSEQUENT REVIEWS.—After the
9 fourth contract year, the WTC Program Ad-
10 ministrator shall conduct periodic reviews to de-
11 termine whether the reimbursement rates in ef-
12 fect under this subsection provide fair and ap-
13 propriate reimbursement for such program serv-
14 ices. Based upon such a review, the Adminis-
15 trator may by rule modify such rates, taking
16 into account a reasonable and fair rate for the
17 services being provided.

18 “(C) GAO REVIEW.—The Comptroller
19 General of the United States shall review the
20 WTC Program Administrator’s determinations
21 regarding fair and appropriate reimbursement
22 for program services under this paragraph.

23 “(d) REQUIREMENTS.—The WTC Program Adminis-
24 trator shall not enter into a contract with a Clinical Center
25 of Excellence under subsection (a)(1) unless—

1 “(1) the Center establishes a formal mechanism
2 for consulting with and receiving input from rep-
3 resentatives of eligible populations receiving moni-
4 toring and treatment benefits under subtitle B from
5 such Center;

6 “(2) the Center provides for the coordination of
7 monitoring and treatment benefits under subtitle B
8 with routine medical care provided for the treatment
9 of conditions other than WTC-related health condi-
10 tions;

11 “(3) the Center collects and reports to the cor-
12 responding Coordinating Center of Excellence data
13 in accordance with section 3005;

14 “(4) the Center has in place safeguards against
15 fraud that are satisfactory to the Administrator;

16 “(5) the Center agrees to treat or refer for
17 treatment all individuals who are eligible WTC re-
18 sponders or eligible WTC community members with
19 respect to such Center who present themselves for
20 treatment of a WTC-related health condition;

21 “(6) the Center has in place safeguards to en-
22 sure the confidentiality of an individual’s individ-
23 ually identifiable health information, including re-
24 quiring that such information not be disclosed to the

1 individual's employer without the authorization of
2 the individual;

3 “(7) the Center provides assurances that the
4 amounts paid under subsection (c)(1) are used only
5 for costs incurred in carrying out the activities de-
6 scribed in subsection (a), other than those described
7 in subsection (a)(1)(A); and

8 “(8) the Center agrees to meet all the other ap-
9 plicable requirements of this title, including regula-
10 tions implementing such requirements.

11 **“SEC. 3007. ENTITLEMENT AUTHORITIES.**

12 “Subject to subsections (b)(4)(C) and (c)(5) of sec-
13 tion 3012, subtitle B constitutes budget authority in ad-
14 vance of appropriations Acts and represents the obligation
15 of the Federal Government to provide for the payment for
16 monitoring, initial health evaluations, and treatment in ac-
17 cordance with such subtitle and section 3006(c) con-
18 stitutes such budget authority and represents the obliga-
19 tion of the Federal Government to provide for the payment
20 described in such section.

21 **“SEC. 3008. DEFINITIONS.**

22 “In this title:

23 “(1) The term ‘aggravating’ means, with re-
24 spect to a health condition, a health condition that
25 existed on September 11, 2001, and that, as a result

1 of exposure to airborne toxins, any other hazard, or
2 any other adverse condition resulting from the Sep-
3 tember 11, 2001, terrorist attacks on the World
4 Trade Center requires medical treatment that is (or
5 will be) in addition to, more frequent than, or of
6 longer duration than the medical treatment that
7 would have been required for such condition in the
8 absence of such exposure.

9 “(2) The terms ‘certified eligible WTC re-
10 sponder’ and ‘certified eligible WTC community
11 member’ mean an individual who has been certified
12 as an eligible WTC responder under section
13 3011(a)(4) or an eligible WTC community member
14 under section 3021(a)(4), respectively.

15 “(3) The terms ‘Clinical Center of Excellence’
16 and ‘Coordinating Center of Excellence’ have the
17 meanings given such terms in section 3006(b).

18 “(4) The term ‘current consortium arrange-
19 ments’ means the arrangements as in effect on the
20 date of the enactment of this title between the Na-
21 tional Institute for Occupational Safety and Health
22 and the Mt. Sinai-coordinated consortium and the
23 Fire Department of the City of New York.

1 “(5) The terms ‘eligible WTC responder’ and
2 ‘eligible WTC community member’ are defined in
3 sections 3011(a) and 3021(a), respectively.

4 “(6) The term ‘initial health evaluation’ in-
5 cludes, with respect to an individual, a medical and
6 exposure history, a physical examination, and addi-
7 tional medical testing as needed to evaluate whether
8 the individual has a WTC-related health condition
9 and is eligible for treatment under the WTC pro-
10 gram.

11 “(7) The term ‘list of identified WTC-related
12 health conditions’ means—

13 “(A) for eligible WTC responders, the
14 identified WTC-related health condition for eli-
15 gible WTC responders under section 3012(a)(3)
16 or 3012(a)(4); or

17 “(B) for eligible WTC community mem-
18 bers, the identified WTC-related health condi-
19 tion for WTC community members under sec-
20 tion 3022(b)(1) or 3022(b)(2).

21 “(8) The term ‘Mt.-Sinai-coordinated consor-
22 tium’ means the consortium coordinated by Mt.
23 Sinai hospital in New York City that coordinates the
24 monitoring and treatment under the current consor-
25 tium arrangements for eligible WTC responders

1 other than with respect to those covered under the
2 arrangement with the Fire Department of the City
3 of New York.

4 “(9) The term ‘New York City disaster area’
5 means the area within New York City that is—

6 “(A) the area of Manhattan that is south
7 of Houston Street; and

8 “(B) any block in Brooklyn that is wholly
9 or partially contained within a 1.5-mile radius
10 of the former World Trade Center site.

11 “(10) The term ‘New York metropolitan area’
12 means an area, specified by the WTC Program Ad-
13 ministrator, within which eligible WTC responders
14 and eligible WTC community members who reside in
15 such area are reasonably able to access monitoring
16 and treatment benefits and initial health evaluation
17 benefits under this title through a Clinical Centers
18 of Excellence described in subparagraphs (A), (B),
19 or (C) of section 3006(b)(1).

20 “(11) Any reference to ‘September 11, 2001’
21 shall be deemed a reference to the period on such
22 date subsequent to the terrorist attacks on the
23 World Trade Center on such date.

24 “(12) The term ‘September 11, 2001, terrorist
25 attacks on the World Trade Center’ means the ter-

1 rorist attacks that occurred on September 11, 2001,
 2 in New York City and includes the aftermath of
 3 such attacks.

4 “(13) The term ‘WTC Health Program Steer-
 5 ing Committee’ means such a Steering Committee
 6 established under section 3003.

7 “(14) The term ‘WTC Program Administrator’
 8 means the individual responsible under section
 9 3001(f) for the administration of the WTC program.

10 “(15) The term ‘WTC-related health condition’
 11 is defined in section 3012(a).

12 “(16) The term ‘WTC Scientific/Technical Ad-
 13 visory Committee’ means such Committee estab-
 14 lished under section 3002.

15 **“Subtitle B—Program of Moni-**
 16 **toring, Initial Health Evalua-**
 17 **tions, and Treatment**

18 **“PART 1—FOR WTC RESPONDERS**

19 **“SEC. 3011. IDENTIFICATION OF ELIGIBLE WTC RESPOND-**
 20 **ERS AND PROVISION OF WTC-RELATED MONI-**
 21 **TORING SERVICES.**

22 “(a) ELIGIBLE WTC RESPONDER DEFINED.—

23 “(1) IN GENERAL.—For purposes of this title,
 24 the term ‘eligible WTC responder’ means any of the
 25 following individuals, subject to paragraph (5):

1 “(A) CURRENTLY IDENTIFIED RE-
2 SPONDER.—An individual who has been identi-
3 fied as eligible for medical monitoring under the
4 current consortium arrangements (as defined in
5 section 3008(4)).

6 “(B) RESPONDER WHO MEETS CURRENT
7 ELIGIBILITY CRITERIA.—An individual who
8 meets the current eligibility criteria described in
9 paragraph (2).

10 “(C) RESPONDER WHO MEETS MODIFIED
11 ELIGIBILITY CRITERIA.—An individual who—

12 “(i) performed rescue, recovery, demo-
13 lition, debris cleanup, or other related serv-
14 ices in the New York City disaster area in
15 response to the September 11, 2001, ter-
16 rorist attacks on the World Trade Center,
17 regardless of whether such services were
18 performed by a State or Federal employee
19 or member of the National Guard or other-
20 wise; and

21 “(ii) meets such eligibility criteria re-
22 lating to exposure to airborne toxins, other
23 hazards, or adverse conditions resulting
24 from the September 11, 2001, terrorist at-
25 tacks on the World Trade Center as the

1 WTC Program Administrator, after con-
2 sultation with the WTC Responders Steer-
3 ing Committee and the WTC Scientific/
4 Technical Advisory Committee, determines
5 appropriate.

6 The WTC Program Administrator shall not
7 modify such eligibility criteria on or after the
8 date that the number of certifications for eligi-
9 ble responders has reached 80 percent of the
10 limit described in paragraph (5) or on or after
11 the date that the number of certifications for el-
12 igible community members has reached 80 per-
13 cent of the limit described in section
14 3021(a)(5).

15 “(2) CURRENT ELIGIBILITY CRITERIA.—The
16 eligibility criteria described in this paragraph for an
17 individual is that the individual is described in either
18 of the following categories:

19 “(A) FIRE FIGHTERS AND RELATED PER-
20 SONNEL.—The individual—

21 “(i) was a member of the Fire De-
22 partment of the City of New York (wheth-
23 er fire or emergency personnel, active or
24 retired) who participated at least one day
25 in the rescue and recovery effort at any of

1 the former World Trade sites (including
2 Ground Zero, Staten Island land fill, and
3 the NYC Chief Medical Examiner’s office)
4 for any time during the period beginning
5 on September 11, 2001, and ending on
6 July 31, 2002; or

7 “(ii)(I) is a surviving immediate fam-
8 ily member of an individual who was a
9 member of the Fire Department of the
10 City of New York (whether fire or emer-
11 gency personnel, active or retired) and was
12 killed at the World Trade site on Sep-
13 tember 11, 2001; and

14 “(II) received any treatment for a
15 WTC-related mental health condition de-
16 scribed in section 3012(a)(1)(B) on or be-
17 fore September 1, 2008.

18 “(B) LAW ENFORCEMENT OFFICERS AND
19 WTC RESCUE, RECOVERY, AND CLEAN-UP
20 WORKERS.—The individual—

21 “(i) worked or volunteered on-site in
22 rescue, recovery, debris-cleanup or related
23 support services in lower Manhattan (south
24 of Canal St.), the Staten Island Landfill,
25 or the barge loading piers, for at least 4

1 hours during the period beginning on Sep-
2 tember 11, 2001, and ending on Sep-
3 tember 14, 2001, for at least 24 hours
4 during the period beginning on September
5 11, 2001, and ending on September 30,
6 2001, or for at least 80 hours during the
7 period beginning on September 11, 2001,
8 and ending on July 31, 2002;

9 “(ii)(I) was a member of the Police
10 Department of the City of New York
11 (whether active or retired) or a member of
12 the Port Authority Police of the Port Au-
13 thority of New York and New Jersey
14 (whether active or retired) who partici-
15 pated on-site in rescue, recovery, debris
16 clean-up, or related services in lower Man-
17 hattan (south of Canal St.), including
18 Ground Zero, the Staten Island Landfill or
19 the barge loading piers, for at least 4
20 hours during the period beginning Sep-
21 tember 11, 2001, and ending on Sep-
22 tember 14, 2001;

23 “(II) participated on-site in rescue,
24 recovery, debris clean-up, or related serv-
25 ices in at Ground Zero, the Staten Island

1 Landfill or the barge loading piers, for at
2 least one day during the period beginning
3 on September 11, 2001, and ending on
4 July 31, 2002;

5 “(III) participated on-site in rescue,
6 recovery, debris clean-up, or related serv-
7 ices in lower Manhattan (south of Canal
8 St.) for at least 24 hours during the period
9 beginning on September 11, 2001, and
10 ending on September 30, 2001; or

11 “(IV) participated on-site in rescue,
12 recovery, debris clean-up, or related serv-
13 ices in lower Manhattan (south of Canal
14 St.) for at least 80 hours during the period
15 beginning on September 11, 2001, and
16 ending on July 31, 2002;

17 “(iii) was an employee of the Office of
18 the Chief Medical Examiner of the City of
19 New York involved in the examination and
20 handling of human remains from the
21 World Trade Center attacks, or other
22 morgue worker who performed similar
23 post-September 11 functions for such Of-
24 fice staff, during the period beginning on

1 September 11, 2001 and ending on July
2 31, 2002;

3 “(iv) was a worker in the Port Au-
4 thority Trans-Hudson Corporation tunnel
5 for at least 24 hours during the period be-
6 ginning on February 1, 2002, and ending
7 on July 1, 2002; or

8 “(v) was a vehicle-maintenance worker
9 who was exposed to debris from the former
10 World Trade Center while retrieving, driv-
11 ing, cleaning, repairing, and maintaining
12 vehicles contaminated by airborne toxins
13 from the September 11, 2001, terrorist at-
14 tacks on the World Trade Center during a
15 duration and period described in subpara-
16 graph (A).

17 “(3) APPLICATION PROCESS.—The WTC Pro-
18 gram Administrator in consultation with the Coordi-
19 nating Centers of Excellence shall establish a proc-
20 ess for individuals, other than eligible WTC respond-
21 ers described in paragraph (1)(A), to apply to be de-
22 termined to be eligible WTC responders. Under such
23 process—

1 “(A) there shall be no fee charged to the
2 applicant for making an application for such
3 determination;

4 “(B) the Administrator shall make a deter-
5 mination on such an application not later than
6 60 days after the date of filing the application;
7 and

8 “(C) an individual who is determined not
9 to be an eligible WTC responder shall have an
10 opportunity to appeal such determination before
11 an administrative law judge in a manner estab-
12 lished under such process.

13 “(4) CERTIFICATION.—

14 “(A) IN GENERAL.—In the case of an indi-
15 vidual who is described in paragraph (1)(A) or
16 who is determined under paragraph (3) (con-
17 sistent with paragraph (5)) to be an eligible
18 WTC responder, the WTC Program Adminis-
19 trator shall provide an appropriate certification
20 of such fact and of eligibility for monitoring
21 and treatment benefits under this part. The Ad-
22 ministrator shall make determinations of eligi-
23 bility relating to an applicant’s compliance with
24 this title, including the verification of informa-
25 tion submitted in support of the application,

1 and shall not deny such a certification to an in-
2 dividual unless the Administrator determines
3 that—

4 “(i) based on the application sub-
5 mitted, the individual does not meet the
6 eligibility criteria; or

7 “(ii) the numerical limitation on eligi-
8 ble WTC responders set forth in paragraph
9 (5) has been met.

10 “(B) TIMING.—

11 “(i) CURRENTLY IDENTIFIED RE-
12 SPONDERS.—In the case of an individual
13 who is described in paragraph (1)(A), the
14 WTC Program Administrator shall provide
15 the certification under subparagraph (A)
16 not later than 60 days after the date of the
17 enactment of this title.

18 “(ii) OTHER RESPONDERS.—In the
19 case of another individual who is deter-
20 mined under paragraph (3) and consistent
21 with paragraph (5) to be an eligible WTC
22 responder, the WTC Program Adminis-
23 trator shall provide the certification under
24 subparagraph (A) at the time of the deter-
25 mination.

1 “(5) NUMERICAL LIMITATION ON ELIGIBLE
2 WTC RESPONDERS.—

3 “(A) IN GENERAL.—The total number of
4 individuals not described in subparagraph (C)
5 who may qualify as eligible WTC responders for
6 purposes of this title, and be certified as eligible
7 WTC responders under paragraph (4), shall not
8 exceed 15,000, subject to adjustment under
9 paragraph (6), of which no more than 2,500
10 may be individuals certified based on modified
11 eligibility criteria established under paragraph
12 (1)(C). In applying the previous sentence, any
13 individual who at any time so qualifies as an el-
14 igible WTC responder shall be counted against
15 such numerical limitation.

16 “(B) PROCESS.—In implementing subpara-
17 graph (A), the WTC Program Administrator
18 shall—

19 “(i) limit the number of certifications
20 provided under paragraph (4) in accord-
21 ance with such subparagraph; and

22 “(ii) provide priority in such certifi-
23 cations in the order in which individuals
24 apply for a determination under paragraph
25 (3).

1 “(C) CURRENTLY IDENTIFIED RESPOND-
2 ERS NOT COUNTED.—Individuals described in
3 this subparagraph are individuals who are de-
4 scribed in paragraph (1)(A).

5 “(6) POTENTIAL ADJUSTMENT IN NUMERICAL
6 LIMITATIONS DEPENDENT UPON ACTUAL SPENDING
7 RELATIVE TO ESTIMATED SPENDING.—

8 “(A) INITIAL CALCULATION FOR FISCAL
9 YEARS 2009 THROUGH 2011.—If the WTC Pro-
10 gram Administrator determines as of December
11 1, 2011, that the WTC expenditure-to-CBO-es-
12 timate percentage (as defined in subparagraph
13 (D)(iii)) for fiscal years 2009 through 2011
14 does not exceed 90 percent, then, effective Jan-
15 uary 1, 2012, the WTC Program Administrator
16 may increase the numerical limitation under
17 paragraph (5)(A), the numerical limitation
18 under section 3021(a)(5), or both, by a number
19 of percentage points not to exceed the number
20 of percentage points specified in subparagraph
21 (C) for such period of fiscal years.

22 “(B) SUBSEQUENT CALCULATION FOR FIS-
23 CAL YEARS 2009 THROUGH 2015.—If the Sec-
24 retary determines as of December 1, 2015, that
25 the WTC expenditure-to-CBO-estimate percent-

ages for fiscal years 2009 through 2015 and for
fiscal years 2012 through 2015 do not exceed
90 percent, then, effective January 1, 2015, the
WTC Program Administrator may increase the
numerical limitation under paragraph (5)(A),
the numerical limitation under section
3021(a)(5), or both, as in effect after the appli-
cation of subparagraph (A), by a number of
percentage points not to exceed twice the lesser
of—

“(i) the number of percentage points
specified in subparagraph (C) for fiscal
years 2009 through 2012, or

“(ii) the number of percentage points
specified in subparagraph (C) for fiscal
years 2012 through 2015.

“(C) MAXIMUM PERCENTAGE INCREASE IN
NUMERICAL LIMITATIONS FOR PERIOD OF FIS-
CAL YEARS.—The number of percentage points
specified in this clause for a period of fiscal
years is—

“(i) 100 percentage points, multiplied
by

“(ii) one minus a fraction the numer-
ator of which is the net Federal WTC

1 spending for such period, and the denomi-
2 nator of which is the CBO WTC spending
3 estimate under this title for such period.

4 “(D) DEFINITIONS.—For purposes of this
5 paragraph:

6 “(i) NET FEDERAL SPENDING.—The
7 term ‘net Federal WTC spending’ means,
8 with respect to a period of fiscal years, the
9 net Federal spending under this title for
10 such fiscal years.

11 “(ii) CBO WTC SPENDING ESTIMATE
12 UNDER THIS TITLE.—The term ‘CBO
13 WTC medical spending estimate under this
14 title’ means, with respect to—

15 “(I) fiscal years 2009 through
16 2011, \$900,000,000;

17 “(II) fiscal years 2012 through
18 2015, \$1,890,000,000; and

19 “(III) fiscal years 2009 through
20 2015, the sum of the amounts speci-
21 fied in subclauses (I) and (II).

22 “(iii) WTC EXPENDITURE-TO-CBO-ES-
23 TIMATE PERCENTAGE.—The term ‘WTC
24 expenditure-to-estimate percentage’ means,

1 with respect to a period of fiscal years, the
2 ratio (expressed as a percentage) of—

3 “(I) the net Federal WTC spend-
4 ing for such period, to

5 “(II) the CBO WTC spending es-
6 timate under this title for such period.

7 “(b) MONITORING BENEFITS.—

8 “(1) IN GENERAL.—In the case of an eligible
9 WTC responder under section 3011(a)(4) (other
10 than one described in subsection (a)(2)(A)(ii)), the
11 WTC program shall provide for monitoring benefits
12 that include medical monitoring consistent with pro-
13 tocols approved by the WTC Program Administrator
14 and including clinical examinations and long-term
15 health monitoring and analysis. In the case of an eli-
16 gible WTC responder who is an active member of
17 the Fire Department of the City of New York, the
18 responder shall receive such benefits as part of the
19 individual’s periodic company medical exams.

20 “(2) PROVISION OF MONITORING BENEFITS.—

21 The monitoring benefits under paragraph (1) shall
22 be provided through the Clinical Center of Excel-
23 lence for the type of individual involved or, in the
24 case of an individual residing outside the New York

1 metropolitan area, under an arrangement under sec-
2 tion 3031.

3 **“SEC. 3012. TREATMENT OF CERTIFIED ELIGIBLE WTC RE-**
4 **SPONDERS FOR WTC-RELATED HEALTH CON-**
5 **DITIONS.**

6 “(a) WTC-RELATED HEALTH CONDITION DE-
7 FINED.—

8 “(1) IN GENERAL.—For purposes of this title,
9 the term ‘WTC-related health condition’ means—

10 “(A) an illness or health condition for
11 which exposure to airborne toxins, any other
12 hazard, or any other adverse condition resulting
13 from the September 11, 2001, terrorist attacks
14 on the World Trade Center, based on an exam-
15 ination by a medical professional with experi-
16 ence in treating or diagnosing the medical con-
17 ditions included in the applicable list of identi-
18 fied WTC-related conditions, is substantially
19 likely to be a significant factor in aggravating,
20 contributing to, or causing the illness or health
21 condition, as determined under paragraph (2);
22 or

23 “(B) a mental health condition for which
24 such attacks, based on an examination by a
25 medical professional with experience in treating

1 or diagnosing the medical conditions included in
2 the applicable list of identified WTC-related
3 conditions, is substantially likely be a signifi-
4 cant factor in aggravating, contributing to, or
5 causing the condition, as determined under
6 paragraph (2).

7 In the case of an eligible WTC responder described
8 in section 3011(a)(2)(A)(ii), such term only includes
9 the mental health condition described in subpara-
10 graph (B).

11 “(2) DETERMINATION.—The determination of
12 whether the September 11, 2001, terrorist attacks
13 on the World Trade Center were substantially likely
14 to be a significant factor in aggravating, contrib-
15 uting to, or causing an individual’s illness or health
16 condition shall be made based on an assessment of
17 the following:

18 “(A) The individual’s exposure to airborne
19 toxins, any other hazard, or any other adverse
20 condition resulting from the terrorist attacks.
21 Such exposure shall be—

22 “(i) evaluated and characterized
23 through the use of a standardized, popu-
24 lation appropriate questionnaire approved

1 by the Director of the National Institute
2 for Occupational Safety and Health; and

3 “(ii) assessed and documented by a
4 medical professional with experience in
5 treating or diagnosing medical conditions
6 included on the list of identified WTC-re-
7 lated conditions.

8 “(B) The type of symptoms and temporal
9 sequence of symptoms. Such symptoms shall
10 be—

11 “(i) assessed through the use of a
12 standardized, population appropriate med-
13 ical questionnaire approved by Director of
14 the National Institute for Occupational
15 Safety and Health and a medical examina-
16 tion; and

17 “(ii) diagnosed and documented by a
18 medical professional described in subpara-
19 graph (A)(ii).

20 “(3) LIST OF IDENTIFIED WTC-RELATED
21 HEALTH CONDITIONS FOR CERTIFIED ELIGIBLE WTC
22 RESPONDERS.—For purposes of this title, the term
23 ‘identified WTC-related health condition for eligible
24 WTC responders’ means any of the following health
25 conditions:

1 “(A) AERODIGESTIVE DISORDERS.—

2 “(i) Interstitial lung diseases.

3 “(ii) Chronic respiratory disorder-
4 fumes/vapors.

5 “(iii) Asthma.

6 “(iv) Reactive airways dysfunction
7 syndrome (RADS).

8 “(v) WTC-exacerbated chronic ob-
9 structive pulmonary disease (COPD).

10 “(vi) Chronic cough syndrome.

11 “(vii) Upper airway hyperreactivity.

12 “(viii) Chronic rhinosinusitis.

13 “(ix) Chronic nasopharyngitis.

14 “(x) Chronic laryngitis.

15 “(xi) Gastro-esophageal reflux dis-
16 order (GERD).

17 “(xii) Sleep apnea exacerbated by or
18 related to a condition described in a pre-
19 vious clause.

20 “(B) MENTAL HEALTH CONDITIONS.—

21 “(i) Post traumatic stress disorder
22 (PTSD).

23 “(ii) Major depressive disorder.

24 “(iii) Panic disorder.

25 “(iv) Generalized anxiety disorder.

1 “(v) Anxiety disorder (not otherwise
2 specified).

3 “(vi) Depression (not otherwise speci-
4 fied).

5 “(vii) Acute stress disorder.

6 “(viii) Dysthymic disorder.

7 “(ix) Adjustment disorder.

8 “(x) Substance abuse.

9 “(xi) V codes (treatments not specifi-
10 cally related to psychiatric disorders, such
11 as marital problems, parenting problems
12 etc.), secondary to another identified
13 WTC-related health condition for WTC eli-
14 gible responders.

15 “(C) MUSCULOSKELETAL DISORDERS.—

16 “(i) Low back pain.

17 “(ii) Carpal tunnel syndrome (CTS).

18 “(iii) Other musculoskeletal disorders.

19 “(4) ADDITION OF IDENTIFIED WTC-RELATED
20 HEALTH CONDITIONS FOR ELIGIBLE WTC RESPOND-
21 ERS.—

22 “(A) IN GENERAL.—The WTC Program
23 Administrator may promulgate regulations to
24 add an illness or health condition not described
25 in paragraph (3) to be added to the list of iden-

1 tified WTC-related conditions for eligible WTC
2 responders. In promulgating such regulations,
3 the Secretary shall provide for notice and op-
4 portunity for a public hearing and at least 90
5 days of public comment. In promulgating such
6 regulations, the WTC Program Administrator
7 shall take into account the findings and rec-
8 ommendations of Clinical Centers of Excellence
9 published in peer reviewed journals in the deter-
10 mination of whether an additional illness or
11 health condition, such as cancer, should be
12 added to the list of identified WTC-related
13 health conditions for eligible WTC responders.

14 “(B) PETITIONS.—Any person (including
15 the WTC Health Program Scientific/Technical
16 Advisory Committee) may petition the WTC
17 Program Administrator to propose regulations
18 described in subparagraph (A). Unless clearly
19 frivolous, or initiated by such Committee, any
20 such petition shall be referred to such Com-
21 mittee for its recommendations. Following—

22 “(i) receipt of any recommendation of
23 the Committee; or

24 “(ii) 180 days after the date of the re-
25 ferral to the Committee,

1 whichever occurs first, the WTC Program Ad-
2 ministrator shall conduct a rulemaking pro-
3 ceeding on the matters proposed in the petition
4 or publish in the Federal Register a statement
5 of reasons for not conducting such proceeding.

6 “(C) EFFECTIVENESS.—Any addition
7 under subparagraph (A) of an illness or health
8 condition shall apply only with respect to appli-
9 cations for benefits under this title which are
10 filed after the effective date of such regulation.

11 “(D) ROLE OF ADVISORY COMMITTEE.—
12 Except with respect to a regulation rec-
13 ommended by the WTC Health Program Sci-
14 entific/Technical Advisory Committee), the
15 WTC Program Administrator may not propose
16 a regulation under this paragraph, unless the
17 Administrator has first provided to the Com-
18 mittee a copy of the proposed regulation, re-
19 quested recommendations and comments by the
20 Committee, and afforded the Committee at
21 least 90 days to make such recommendations.

22 “(b) COVERAGE OF TREATMENT FOR WTC-RELATED
23 HEALTH CONDITIONS.—

1 “(1) DETERMINATION BASED ON AN IDENTI-
2 FIED WTC-RELATED HEALTH CONDITION FOR CER-
3 TIFIED ELIGIBLE WTC RESPONDERS.—

4 “(A) IN GENERAL.—If a physician at a
5 Clinical Center of Excellence that is providing
6 monitoring benefits under section 3011 for a
7 certified eligible WTC responder determines
8 that the responder has an identified WTC-re-
9 lated health condition, and the physician makes
10 a clinical determination that exposure to air-
11 borne toxins, other hazards, or adverse condi-
12 tions resulting from the 9/11 terrorist attacks is
13 substantially likely to be a significant factor in
14 aggravating, contributing to, or causing the
15 condition—

16 “(i) the physician shall promptly
17 transmit such determination to the WTC
18 Program Administrator and provide the
19 Administrator with the medical facts sup-
20 porting such determination; and

21 “(ii) on and after the date of such
22 transmittal and subject to subparagraph
23 (B), the WTC program shall provide for
24 payment under subsection (c) for medically
25 necessary treatment for such condition.

1 “(B) REVIEW; CERTIFICATION; AP-
2 PEALS.—

3 “(i) REVIEW.—A Federal employee
4 designated by the WTC Program Adminis-
5 trator shall review determinations made
6 under subparagraph (A) of a WTC-related
7 health condition.

8 “(ii) CERTIFICATION.—The Adminis-
9 trator shall provide a certification of such
10 condition based upon reviews conducted
11 under clause (i). Such a certification shall
12 be provided unless the Administrator de-
13 termines that the responder’s condition is
14 not an identified WTC-related health con-
15 dition or that exposure to airborne toxins,
16 other hazards, or adverse conditions result-
17 ing from the 9/11 terrorist attacks is not
18 substantially likely to be a significant fac-
19 tor in significantly aggravating, contrib-
20 uting to, or causing the condition.

21 “(iii) APPEAL PROCESS.—The Admin-
22 istrator shall provide a process for the ap-
23 peal of determinations under clause (ii) be-
24 fore an administrative law judge.

1 “(2) DETERMINATION BASED ON OTHER WTC-
2 RELATED HEALTH CONDITION.—

3 “(A) IN GENERAL.—If a physician at a
4 Clinical Center of Excellence determines pursu-
5 ant to subsection (a) that the certified eligible
6 WTC responder has a WTC-related health con-
7 dition that is not an identified WTC-related
8 health condition for eligible WTC responders—

9 “(i) the physician shall promptly
10 transmit such determination to the WTC
11 Program Administrator and provide the
12 Administrator with the facts supporting
13 such determination; and

14 “(ii) the Administrator shall make a
15 determination under subparagraph (B)
16 with respect to such physician’s determina-
17 tion.

18 “(B) REVIEW; CERTIFICATION.—

19 “(i) USE OF PHYSICIAN PANEL.—
20 With respect to each determination relat-
21 ing to a WTC-related health condition
22 transmitted under subparagraph (A)(i),
23 the WTC Program Administrator shall
24 provide for the review of the condition to
25 be made by a physician panel with appro-

1 prate expertise appointed by the WTC
2 Program Administrator. Such a panel shall
3 make recommendations to the Adminis-
4 trator on the evidence supporting such de-
5 termination.

6 “(ii) REVIEW OF RECOMMENDATIONS
7 OF PANEL; CERTIFICATION.—The Adminis-
8 trator, based on such recommendations
9 shall determine, within 60 days after the
10 date of the transmittal under subpara-
11 graph (A)(i), whether or not the condition
12 is a WTC-related health condition and, if
13 it is, provide for a certification under para-
14 graph (1)(B)(ii) of coverage of such condi-
15 tion. The Administrator shall provide a
16 process for the appeal of determinations
17 that the responder’s condition is not a
18 WTC-related health condition before an
19 administrative law judge.

20 “(3) REQUIREMENT OF MEDICAL NECESSITY.—

21 “(A) IN GENERAL.—In providing treat-
22 ment for a WTC-health condition, a physician
23 shall provide treatment that is medically nec-
24 essary and in accordance with medical protocols
25 established under subsection (d).

1 “(B) MEDICALLY NECESSARY STAND-
2 ARD.—For the purpose of this title, health care
3 services shall be treated as medically necessary
4 for an individual if a physician, exercising pru-
5 dent clinical judgment, would consider the serv-
6 ices to be medically necessary for the individual
7 for the purpose of evaluating, diagnosing, or
8 treating an illness, injury, disease or its symp-
9 toms, and that are—

10 “(i) in accordance with the generally
11 accepted standards of medical practice;

12 “(ii) clinically appropriate, in terms of
13 type, frequency, extent, site, and duration,
14 and considered effective for the individual’s
15 illness, injury, or disease; and

16 “(iii) not primarily for the conven-
17 ience of the patient or physician, or an-
18 other physician, and not more costly than
19 an alternative service or sequence of serv-
20 ices at least as likely to produce equivalent
21 therapeutic or diagnostic results as to the
22 diagnosis or treatment of the individual’s
23 illness, injury, or disease.

24 “(C) DETERMINATION OF MEDICAL NE-
25 CESSITY.—

1 “(i) REVIEW OF MEDICAL NECES-
2 SITY.—As part of the reimbursement pay-
3 ment process under subsection (c), the
4 WTC Program Administrator shall review
5 claims for reimbursement for the provision
6 of medical treatment to determine if such
7 treatment is medically necessary.

8 “(ii) WITHHOLDING OF PAYMENT FOR
9 MEDICALLY UNNECESSARY TREATMENT.—
10 The Administrator may withhold such pay-
11 ment for treatment that the Administrator
12 determines is not medically necessary.

13 “(iii) REVIEW OF DETERMINATIONS
14 OF MEDICAL NECESSITY.—The Adminis-
15 trator shall provide a process for providers
16 to appeal a determination under clause (ii)
17 that medical treatment is not medically
18 necessary. Such appeals shall be reviewed
19 through the use of a physician panel with
20 appropriate expertise.

21 “(4) SCOPE OF TREATMENT COVERED.—

22 “(A) IN GENERAL.—The scope of treat-
23 ment covered under such paragraphs includes
24 services of physicians and other health care pro-
25 viders, diagnostic and laboratory tests, prescrip-

1 tion drugs, inpatient and outpatient hospital
2 services, and other medically necessary treat-
3 ment.

4 “(B) PHARMACEUTICAL COVERAGE.—With
5 respect to ensuring coverage of medically nec-
6 essary outpatient prescription drugs, such drugs
7 shall be provided, under arrangements made by
8 the WTC Program Administrator, directly
9 through participating Clinical Centers of Excel-
10 lence or through one or more outside vendors.

11 “(C) TRANSPORTATION EXPENSES.—To
12 the extent provided in advance in appropria-
13 tions Acts, the WTC Program Administrator
14 may provide for necessary and reasonable
15 transportation and expenses incident to the se-
16 curing of medically necessary treatment involv-
17 ing travel of more than 250 miles and for which
18 payment is made under this section in the same
19 manner in which individuals may be furnished
20 necessary and reasonable transportation and ex-
21 penses incident to services involving travel of
22 more than 250 miles under regulations imple-
23 menting section 3629(c) of the Energy Employ-
24 ees Occupational Illness Compensation Program

1 Act of 2000 (title XXXVI of Public Law 106–
2 398; 42 U.S.C. 7384t(c)).

3 “(5) PROVISION OF TREATMENT PENDING CER-
4 TIFICATION.—In the case of a certified eligible WTC
5 responder who has been determined by an examining
6 physician under subsection (b)(1) to have an identi-
7 fied WTC-related health condition, but for whom a
8 certification of the determination has not yet been
9 made by the WTC Program Administrator, medical
10 treatment may be provided under this subsection,
11 subject to paragraph (6), until the Administrator
12 makes a decision on such certification. Medical
13 treatment provided under this paragraph shall be
14 considered to be medical treatment for which pay-
15 ment may be made under subsection (c).

16 “(6) PRIOR APPROVAL PROCESS FOR NON-CER-
17 TIFIED NON-EMERGENCY INPATIENT HOSPITAL
18 SERVICES.—Non-emergency inpatient hospital serv-
19 ices for a WTC-related health condition identified by
20 an examining physician under paragraph (b)(1) that
21 is not certified under paragraph (1)(B)(ii) is not
22 covered unless the services have been determined to
23 be medically necessary and approved through a proc-
24 ess established by the WTC Program Administrator.
25 Such process shall provide for a decision on a re-

1 quest for such services within 15 days of the date
2 of receipt of the request. The WTC Administrator
3 shall provide a process for the appeal of a decision
4 that the services are not medically necessary.

5 “(c) PAYMENT FOR INITIAL HEALTH EVALUATION,
6 MEDICAL MONITORING, AND TREATMENT OF WTC-RE-
7 LATED HEALTH CONDITIONS.—

8 “(1) MEDICAL TREATMENT.—

9 “(A) USE OF FECA PAYMENT RATES.—
10 Subject to subparagraph (B), the WTC Pro-
11 gram Administrator shall reimburse costs for
12 medically necessary treatment under this title
13 for WTC-related health conditions according to
14 the payment rates that would apply to the pro-
15 vision of such treatment and services by the fa-
16 cility under the Federal Employees Compensa-
17 tion Act.

18 “(B) PHARMACEUTICALS.—

19 “(i) IN GENERAL.—The WTC Pro-
20 gram Administrator shall establish a pro-
21 gram for paying for the medically nec-
22 essary outpatient prescription pharma-
23 ceuticals prescribed under this title for
24 WTC-related conditions through one or
25 more contracts with outside vendors.

1 “(ii) COMPETITIVE BIDDING.—Under
2 such program the Administrator shall—

3 “(I) select one or more appro-
4 priate vendors through a Federal com-
5 petitive bid process; and

6 “(II) select the lowest bidder (or
7 bidders) meeting the requirements for
8 providing pharmaceutical benefits for
9 participants in the WTC program.

10 “(iii) TREATMENT OF FDNY PARTICI-
11 PANTS.—Under such program the Admin-
12 istrator may enter select a separate vendor
13 to provide pharmaceutical benefits to cer-
14 tified eligible WTC responders for whom
15 the Clinical Center of Excellence is de-
16 scribed in section 3006(b)(1)(A) if such an
17 arrangement is deemed necessary and ben-
18 eficial to the program by the WTC Pro-
19 gram Administrator.

20 “(C) OTHER TREATMENT.—For treatment
21 not covered under a preceding subparagraph,
22 the WTC Program Administrator shall des-
23 ignate a reimbursement rate for each such serv-
24 ice.

1 “(2) MEDICAL MONITORING AND INITIAL
2 HEALTH EVALUATION.—The WTC Program Admin-
3 istrator shall reimburse the costs of medical moni-
4 toring and the costs of an initial health evaluation
5 provided under this title at a rate set by the Admin-
6 istrator.

7 “(3) ADMINISTRATIVE ARRANGEMENT AUTHOR-
8 ITY.—The WTC Program Administrator may enter
9 into arrangements with other government agencies,
10 insurance companies, or other third-party adminis-
11 trators to provide for timely and accurate processing
12 of claims under this section.

13 “(4) CLAIMS PROCESSING SUBJECT TO APPRO-
14 PRIATIONS.—The payment by the WTC Program
15 Administrator for the processing of claims under
16 this title is limited to the amounts provided in ad-
17 vance in appropriations Acts.

18 “(d) MEDICAL TREATMENT PROTOCOLS.—

19 “(1) DEVELOPMENT.—The Coordinating Cen-
20 ters of Excellence shall develop medical treatment
21 protocols for the treatment of certified eligible WTC
22 responders and certified eligible WTC community
23 members for identified WTC-related health condi-
24 tions.

1 “(2) APPROVAL.—The WTC Program Adminis-
2 trator shall approve the medical treatment protocols,
3 in consultation with the WTC Health Program
4 Steering Committees.

5 **“PART 2—COMMUNITY PROGRAM**

6 **“SEC. 3021. IDENTIFICATION AND INITIAL HEALTH EVALUA-**
7 **TION OF ELIGIBLE WTC COMMUNITY MEM-**
8 **BERS.**

9 “(a) ELIGIBLE WTC COMMUNITY MEMBER DE-
10 FINED.—

11 “(1) IN GENERAL.—In this title, the term ‘eligi-
12 ble WTC community member’ means, subject to
13 paragraphs (3) and (5), an individual who claims
14 symptoms of a WTC-related health condition and is
15 described in any of the following subparagraphs:

16 “(A) CURRENTLY IDENTIFIED COMMUNITY
17 MEMBER.—An individual, including an eligible
18 WTC responder, who has been identified as eli-
19 gible for medical treatment or monitoring by
20 the WTC Environmental Health Center as of
21 the date of enactment of this title.

22 “(B) COMMUNITY MEMBER WHO MEETS
23 CURRENT ELIGIBILITY CRITERIA.—An indi-
24 vidual who is not an eligible WTC responder

1 and meets any of the current eligibility criteria
2 described in a subparagraph of paragraph (2).

3 “(C) COMMUNITY MEMBER WHO MEETS
4 MODIFIED ELIGIBILITY CRITERIA.—An indi-
5 vidual who is not an eligible WTC responder
6 and meets such eligibility criteria relating to ex-
7 posure to airborne toxins, other hazards, or ad-
8 verse conditions resulting from the September
9 11, 2001, terrorist attacks on the World Trade
10 Center as the WTC Administrator determines
11 eligible, after consultation with the WTC Com-
12 munity Program Steering Committee, Coordin-
13 ating Centers of Excellence described in sec-
14 tion 3006(b)(1)(C), and the WTC Scientific/
15 Technical Advisory Committee.

16 The Administrator shall not modify such criteria
17 under subparagraph (C) on or after the date that
18 the number of certifications for eligible community
19 members has reached 80 percent of the limit de-
20 scribed in paragraph (5) or on or after the date that
21 the number of certifications for eligible responders
22 has reached 80 percent of the limit described in sec-
23 tion 3021(a)(5).

24 “(2) CURRENT ELIGIBILITY CRITERIA.—The
25 eligibility criteria described in this paragraph for an

1 individual are that the individual is described in any
2 of the following subparagraphs:

3 “(A) A person who was present in the New
4 York City disaster area in the dust or dust
5 cloud on September 11, 2001.

6 “(B) A person who worked, resided or at-
7 tended school, child care or adult day care in
8 the New York City disaster area for—

9 “(i) at least four days during the 4-
10 month period beginning on September 11,
11 2001, and ending on January 10, 2002; or

12 “(ii) at least 30 days during the pe-
13 riod beginning on September 11, 2001,
14 and ending on July 31, 2002.

15 “(C) Any person who worked as a clean-up
16 worker or performed maintenance work in the
17 New York City disaster area during the 4-
18 month period described in subparagraph (B)(i)
19 and had extensive exposure to WTC dust as a
20 result of such work.

21 “(D) A person who was deemed eligible to
22 receive a grant from the Lower Manhattan De-
23 velopment Corporation Residential Grant Pro-
24 gram, who possessed a lease for a residence or
25 purchased a residence in the New York City

1 disaster area, and who resided in such residence
2 during the period beginning on September 11,
3 2001, and ending on May 31, 2003.

4 “(E) A person whose place of employ-
5 ment—

6 “(i) at any time during the period be-
7 ginning on September 11, 2001, and end-
8 ing on May 31, 2003, was in the New
9 York City disaster area; and

10 “(ii) was deemed eligible to receive a
11 grant from the Lower Manhattan Develop-
12 ment Corporation WTC Small Firms At-
13 traction and Retention Act program or
14 other government incentive program de-
15 signed to revitalize the Lower Manhattan
16 economy after the September 11, 2001,
17 terrorist attacks on the World Trade Cen-
18 ter.

19 “(3) APPLICATION PROCESS.—The WTC Pro-
20 gram Administrator in consultation with the Coordi-
21 nating Centers of Excellence shall establish a proc-
22 ess for individuals, other than individuals described
23 in paragraph (1)(A), to be determined eligible WTC
24 community member. Under such process—

1 “(A) there shall be no fee charged to the
2 applicant for making an application for such
3 determination;

4 “(B) the Administrator shall make a deter-
5 mination on such an application not later than
6 60 days after the date of filing the application;
7 and

8 “(C) an individual who is determined not
9 to be an eligible WTC community member shall
10 have an opportunity to appeal such determina-
11 tion before an administrative law judge in a
12 manner established under such process.

13 “(4) CERTIFICATION.—

14 “(A) IN GENERAL.—In the case of an indi-
15 vidual who is described in paragraph (1)(A) or
16 who is determined under paragraph (3) (con-
17 sistent with paragraph (5)) to be an eligible
18 WTC community member, the WTC Program
19 Administrator shall provide an appropriate cer-
20 tification of such fact and of eligibility for fol-
21 lowup monitoring and treatment benefits under
22 this part. The Administrator shall make deter-
23 minations of eligibility relating to an applicant’s
24 compliance with this title, including the
25 verification of information submitted in support

1 of the application and shall not deny such a
2 certification to an individual unless the Admin-
3 istrator determines that—

4 “(i) based on the application sub-
5 mitted, the individual does not meet the
6 eligibility criteria; or

7 “(ii) the numerical limitation on cer-
8 tification of eligible WTC community mem-
9 bers set forth in paragraph (5) has been
10 met.

11 “(B) TIMING.—

12 “(i) CURRENTLY IDENTIFIED COMMU-
13 NITY MEMBERS.—In the case of an indi-
14 vidual who is described in paragraph
15 (1)(A), the WTC Program Administrator
16 shall provide the certification under sub-
17 paragraph (A) not later than 60 days after
18 the date of the enactment of this title.

19 “(ii) OTHER MEMBERS.—In the case
20 of another individual who is determined
21 under paragraph (3) and consistent with
22 paragraph (5) to be an eligible WTC com-
23 munity member, the WTC Program Ad-
24 ministrator shall provide the certification

1 under subparagraph (A) at the time of
2 such determination.

3 “(5) NUMERICAL LIMITATION ON CERTIFI-
4 CATION OF ELIGIBLE WTC COMMUNITY MEMBERS.—

5 “(A) IN GENERAL.—The total number of
6 individuals not described in subparagraph (C)
7 who may be certified as eligible WTC commu-
8 nity members under paragraph (4) shall not ex-
9 ceed 15,000. In applying the previous sentence,
10 any individual who at any time so qualifies as
11 an eligible WTC community member shall be
12 counted against such numerical limitation.

13 “(B) PROCESS.—In implementing subpara-
14 graph (A), the WTC Program Administrator
15 shall—

16 “(i) limit the number of certifications
17 provided under paragraph (4) in accord-
18 ance with such subparagraph; and

19 “(ii) provide priority in such certifi-
20 cations in the order in which individuals
21 apply for a determination under paragraph
22 (4).

23 “(C) INDIVIDUALS CURRENTLY RECEIVING
24 TREATMENT NOT COUNTED.—Individuals de-

1 scribed in this subparagraph are individuals
2 who—

3 “(i) are described in paragraph
4 (1)(A); or

5 “(ii) before the date of the enactment
6 of this title, have received monitoring or
7 treatment at the World Trade Center En-
8 vironmental Health Center at Bellevue
9 Hospital Center, Gouverneur Health Care
10 Services, or Elmhurst Hospital Center.

11 The New York City Health and Hospitals Cor-
12 poration shall, not later than 6 months after
13 the date of enactment of this title, enter into
14 arrangements with the Mt. Sinai Data and
15 Clinical Coordination Center for the reporting
16 of medical data concerning eligible WTC re-
17 sponders described in paragraph (1)(A), as de-
18 termined by the WTC Program Administrator
19 and consistent with applicable Federal and
20 State laws and regulations relating to confiden-
21 tiality of individually identifiable health infor-
22 mation.

23 “(D) REPORT TO CONGRESS IF NUMER-
24 ICAL LIMITATION TO BE REACHED.—If the
25 WTC Program Administrator determines that

1 the number of individuals subject to the numer-
2 ical limitation of subparagraph (A) is likely to
3 exceed such numerical limitation, the Adminis-
4 trator shall submit to Congress a report on
5 such determination. Such report shall include
6 an estimate of the number of such individuals
7 in excess of such numerical limitation and of
8 the additional expenditures that would result
9 under this title if such numerical limitation
10 were removed.

11 “(b) INITIAL HEALTH EVALUATION TO DETERMINE
12 ELIGIBILITY FOR FOLLOWUP MONITORING OR TREAT-
13 MENT.—

14 “(1) IN GENERAL.—In the case of a certified el-
15 igible WTC community member, the WTC program
16 shall provide for an initial health evaluation to deter-
17 mine if the member has a WTC-related health condi-
18 tion and is eligible for followup monitoring and
19 treatment benefits under the WTC program. Initial
20 health evaluation protocols shall be approved by the
21 WTC Program Administrator, in consultation with
22 the World Trade Center Environmental Health Cen-
23 ter at Bellevue Hospital and the WTC Community
24 Program Steering Committee.

1 “(2) INITIAL HEALTH EVALUATION PRO-
2 VIDERS.—The initial health evaluation described in
3 paragraph (1) shall be provided through a Clinical
4 Center of Excellence with respect to the individual
5 involved.

6 “(3) LIMITATION ON INITIAL HEALTH EVALUA-
7 TION BENEFITS.—Benefits for initial health evalua-
8 tion under this part for an eligible WTC community
9 member shall consist only of a single medical initial
10 health evaluation consistent with initial health eval-
11 uation protocols described in paragraph (1). Nothing
12 in this paragraph shall be construed as preventing
13 such an individual from seeking additional medical
14 initial health evaluations at the expense of the indi-
15 vidual.

16 **“SEC. 3022. FOLLOWUP MONITORING AND TREATMENT OF**
17 **CERTIFIED ELIGIBLE WTC COMMUNITY MEM-**
18 **BERS FOR WTC-RELATED HEALTH CONDI-**
19 **TIONS.**

20 “(a) IN GENERAL.—Subject to subsection (b), the
21 provisions of sections 3011 and 3012 shall apply to fol-
22 lowup monitoring and treatment of WTC-related health
23 conditions for certified eligible WTC community members
24 in the same manner as such provisions apply to the moni-
25 toring and treatment of identified WTC-related health

1 conditions for certified eligible WTC responders, except
 2 that such monitoring shall only be available to those cer-
 3 tified as eligible for treatment under this title. Under sec-
 4 tion 3006(a)(3), the City of New York is required to con-
 5 tribute a share of the costs of such treatment.

6 “(b) LIST OF IDENTIFIED WTC-RELATED HEALTH
 7 CONDITIONS FOR WTC COMMUNITY MEMBERS.—

8 “(1) IDENTIFIED WTC-RELATED HEALTH CON-
 9 DITIONS FOR WTC COMMUNITY MEMBERS.—For pur-
 10 poses of this title, the term ‘identified WTC-related
 11 health conditions for WTC community members’
 12 means any of the following health conditions:

13 “(A) AERODIGESTIVE DISORDERS.—

14 “(i) Interstitial lung diseases.

15 “(ii) Chronic respiratory disorder—
 16 fumes/vapors.

17 “(iii) Asthma.

18 “(iv) Reactive airways dysfunction
 19 syndrome (RADS).

20 “(v) WTC-exacerbated chronic ob-
 21 structive pulmonary disease (COPD).

22 “(vi) Chronic cough syndrome.

23 “(vii) Upper airway hyperreactivity.

24 “(viii) Chronic rhinosinusitis.

25 “(ix) Chronic nasopharyngitis.

1 “(x) Chronic laryngitis.

2 “(xi) Gastro-esophageal reflux dis-
3 order (GERD).

4 “(xii) Sleep apnea exacerbated by or
5 related to a condition described in a pre-
6 vious clause.

7 “(B) MENTAL HEALTH CONDITIONS.—

8 “(i) Post traumatic stress disorder
9 (PTSD).

10 “(ii) Major depressive disorder.

11 “(iii) Panic disorder.

12 “(iv) Generalized anxiety disorder.

13 “(v) Anxiety disorder (not otherwise
14 specified).

15 “(vi) Depression (not otherwise speci-
16 fied).

17 “(vii) Acute stress disorder.

18 “(viii) Dysthymic disorder.

19 “(ix) Adjustment disorder.

20 “(x) Substance abuse.

21 “(xi) V codes (treatments not specifi-
22 cally related to psychiatric disorders, such
23 as marital problems, parenting problems
24 etc.), secondary to another identified

1 WTC-related health condition for WTC
2 community members.

3 “(2) ADDITIONS TO IDENTIFIED WTC-RELATED
4 HEALTH CONDITIONS FOR WTC COMMUNITY MEM-
5 BERS.—The provisions of paragraph (4) of section
6 3012(a) shall apply with respect to an addition to
7 the list of identified WTC-related conditions for eli-
8 gible WTC community members under paragraph
9 (1) in the same manner as such provisions apply to
10 an addition to the list of identified WTC-related con-
11 ditions for eligible WTC responders under section
12 3012(a)(3).

13 **“SEC. 3023. FOLLOWUP MONITORING AND TREATMENT OF**
14 **OTHER INDIVIDUALS WITH WTC-RELATED**
15 **HEALTH CONDITIONS.**

16 “(a) IN GENERAL.—Subject to subsection (c), the
17 provisions of section 3022 shall apply to the followup mon-
18 itoring and treatment of WTC-related health conditions
19 for eligible WTC community members in the case of indi-
20 viduals described in subsection (b) in the same manner
21 as such provisions apply to the followup monitoring and
22 treatment of WTC-related health conditions for WTC
23 community members. Under section 3006(a)(3), the City
24 of New York is required to contribute a share of the costs
25 of such monitoring and treatment.

1 “(b) INDIVIDUALS DESCRIBED.—An individual de-
2 scribed in this subsection is an individual who, regardless
3 of location of residence—

4 “(1) is not a eligible WTC responder or an eli-
5 gible WTC community member; and

6 “(2) is diagnosed at a Clinical Center of Excel-
7 lence (with respect to an eligible WTC community
8 member) with an identified WTC-related health con-
9 dition for WTC community members.

10 “(c) LIMITATION.—

11 “(1) IN GENERAL.—The WTC Program Admin-
12 istrator shall limit benefits for any fiscal year under
13 subsection (a) in a manner so that payments under
14 this section for such fiscal year do not exceed the
15 amount specified in paragraph (2) for such fiscal
16 year.

17 “(2) LIMITATION.—The amount specified in
18 this paragraph for—

19 “(A) fiscal year 2009 is \$20,000,000; or

20 “(B) a succeeding fiscal year is the
21 amount specified in this paragraph for the pre-
22 vious fiscal year increased by the annual per-
23 centage increase in the medical care component
24 of the consumer price index for all urban con-
25 sumers.

1 **“PART 3—NATIONAL ARRANGEMENT FOR BENE-**
2 **FITS FOR ELIGIBLE INDIVIDUALS OUTSIDE**
3 **NEW YORK**

4 **“SEC. 3031. NATIONAL ARRANGEMENT FOR BENEFITS FOR**
5 **ELIGIBLE INDIVIDUALS OUTSIDE NEW YORK.**

6 “(a) IN GENERAL.—In order to ensure reasonable ac-
7 cess to benefits under this subtitle for individuals who are
8 eligible WTC responders or eligible WTC community
9 members and who reside in any State, as defined in sec-
10 tion 2(f), outside the New York metropolitan area, the
11 WTC Program Administrator shall establish a nationwide
12 network of health care providers to provide monitoring
13 and treatment benefits and initial health evaluations near
14 such individuals’ areas of residence in such States. Noth-
15 ing in this subsection shall be construed as preventing
16 such individuals from being provided such monitoring and
17 treatment benefits or initial health evaluation through any
18 Clinical Center of Excellence.

19 “(b) NETWORK REQUIREMENTS.—Any health care
20 provider participating in the network under subsection (a)
21 shall—

22 “(1) meet criteria for credentialing established
23 by the Coordinating Centers of Excellence;

24 “(2) follow the monitoring, initial health evalua-
25 tion, and treatment protocols developed under sec-
26 tion 3006(a)(2)(B);

1 “(3) collect and report data in accordance with
2 section 3005; and

3 “(4) meet such fraud, quality assurance, and
4 other requirements as the WTC Program Adminis-
5 trator establishes.

6 **“Subtitle C—Research Into**
7 **Conditions**

8 **“SEC. 3041. RESEARCH REGARDING CERTAIN HEALTH CON-**
9 **DITIONS RELATED TO SEPTEMBER 11 TER-**
10 **RORIST ATTACKS IN NEW YORK CITY.**

11 “(a) IN GENERAL.—With respect to individuals, in-
12 cluding eligible WTC responders and eligible WTC com-
13 munity members, receiving monitoring or treatment under
14 subtitle B, the WTC Program Administrator shall conduct
15 or support—

16 “(1) research on physical and mental health
17 conditions that may be related to the September 11,
18 2001, terrorist attacks;

19 “(2) research on diagnosing WTC-related
20 health conditions of such individuals, in the case of
21 conditions for which there has been diagnostic un-
22 certainty; and

23 “(3) research on treating WTC-related health
24 conditions of such individuals, in the case of condi-

1 tions for which there has been treatment uncer-
2 tainty.

3 The Administrator may provide such support through con-
4 tinuation and expansion of research that was initiated be-
5 fore the date of the enactment of this title and through
6 the World Trade Center Health Registry (referred to in
7 section 3051), through a Clinical Center of Excellence, or
8 through a Coordinating Center of Excellence.

9 “(b) TYPES OF RESEARCH.—The research under
10 subsection (a)(1) shall include epidemiologic and other re-
11 search studies on WTC-related conditions or emerging
12 conditions—

13 “(1) among WTC responders and community
14 members under treatment; and

15 “(2) in sampled populations outside the New
16 York City disaster area in Manhattan as far north
17 as 14th Street and in Brooklyn, along with control
18 populations, to identify potential for long-term ad-
19 verse health effects in less exposed populations.

20 “(c) CONSULTATION.—The WTC Program Adminis-
21 trator shall carry out this section in consultation with the
22 WTC Health Program Steering Committees and the WTC
23 Scientific/Technical Advisory Committee.

24 “(d) APPLICATION OF PRIVACY AND HUMAN SUB-
25 JECT PROTECTIONS.—The privacy and human subject

1 protections applicable to research conducted under this
2 section shall not be less than such protections applicable
3 to research otherwise conducted by the National Institutes
4 of Health.

5 “(e) AUTHORIZATION OF APPROPRIATIONS.—For the
6 purpose of carrying out this section, there are authorized
7 to be appropriated \$15,000,000 for each fiscal year, in
8 addition to any other authorizations of appropriations that
9 are available for such purpose.

10 **“Subtitle D—Programs of the New**
11 **York City Department of Health**
12 **and Mental Hygiene**

13 **“SEC. 3051. WORLD TRADE CENTER HEALTH REGISTRY.**

14 “(a) PROGRAM EXTENSION.—For the purpose of en-
15 suring on-going data collection for victims of the Sep-
16 tember 11, 2001, terrorist attacks on the World Trade
17 Center, the WTC Program Administrator, shall extend
18 and expand the arrangements in effect as of January 1,
19 2008, with the New York City Department of Health and
20 Mental Hygiene that provide for the World Trade Center
21 Health Registry.

22 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated \$7,000,000 for each fis-
24 cal year to carry out this section.

1 **“SEC. 3052. MENTAL HEALTH SERVICES.**

2 “(a) IN GENERAL.—The WTC Program Adminis-
3 trator may make grants to the New York City Department
4 of Health and Mental Hygiene to provide mental health
5 services to address mental health needs relating to the
6 September 11, 2001, terrorist attacks on the World Trade
7 Center.

8 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated \$8,500,000 for each fis-
10 cal year to carry out this section.”.

11 **TITLE II—SEPTEMBER 11TH VIC-**
12 **TIM COMPENSATION FUND OF**
13 **2001**

14 **SEC. 201. DEFINITIONS.**

15 Section 402 of the Air Transportation Safety and
16 System Stabilization Act (49 U.S.C. 40101 note) is
17 amended—

18 (1) in paragraph (6) by inserting “, or debris
19 removal, including under the World Trade Center
20 Health Program established under section 3001 of
21 the Public Health Service Act,” after “September
22 11, 2001”;

23 (2) by inserting after paragraph (6) the fol-
24 lowing new paragraphs and redesignating subse-
25 quent paragraphs accordingly:

1 “(7) CONTRACTOR AND SUBCONTRACTOR.—The
2 term ‘contractor and subcontractor’ means any con-
3 tractor or subcontractor (at any tier of a subcon-
4 tracting relationship), including any general con-
5 tractor, construction manager, prime contractor,
6 consultant, or any parent, subsidiary, associated or
7 allied company, affiliated company, corporation,
8 firm, organization, or joint venture thereof that par-
9 ticipated in debris removal at any 9/11 crash site.
10 Such term shall not include any entity, including the
11 Port Authority of New York and New Jersey, with
12 a property interest in the World Trade Center, on
13 September 11, 2001, whether fee simple, leasehold
14 or easement, direct or indirect.

15 “(8) DEBRIS REMOVAL.—The term ‘debris re-
16 moval’ means rescue and recovery efforts, removal of
17 debris, cleanup, remediation, and response during
18 the immediate aftermath of the terrorist-related air-
19 craft crashes of September 11, 2001, with respect to
20 a 9/11 crash site.”;

21 (3) by inserting after paragraph (10), as so re-
22 designated, the following new paragraph and redesi-
23 gnating the subsequent paragraphs accordingly:

24 “(11) IMMEDIATE AFTERMATH.—The term ‘im-
25 mediate aftermath’ means any period beginning with

1 the terrorist-related aircraft crashes of September
2 11, 2001, and ending on August 30, 2002.”; and

3 (4) by adding at the end the following new
4 paragraph:

5 “(14) 9/11 CRASH SITE.—The term ‘9/11 crash
6 site’ means—

7 “(A) the World Trade Center site, Pen-
8 tagon site, and Shanksville, Pennsylvania site;

9 “(B) the buildings or portions of buildings
10 that were destroyed as a result of the terrorist-
11 related aircraft crashes of September 11, 2001;

12 “(C) any area contiguous to a site of such
13 crashes that the Special Master determines was
14 sufficiently close to the site that there was a de-
15 monstrable risk of physical harm resulting from
16 the impact of the aircraft or any subsequent
17 fire, explosions, or building collapses (including
18 the immediate area in which the impact oc-
19 curred, fire occurred, portions of buildings fell,
20 or debris fell upon and injured individuals); and

21 “(D) any area related to, or along, routes
22 of debris removal, such as barges and Fresh
23 Kills.”.

1 **SEC. 202. EXTENDED AND EXPANDED ELIGIBILITY FOR**
2 **COMPENSATION.**

3 (a) INFORMATION ON LOSSES RESULTING FROM DE-
4 BRIS REMOVAL INCLUDED IN CONTENTS OF CLAIM
5 FORM.—Section 405(a)(2)(B) of the Air Transportation
6 Safety and System Stabilization Act (49 U.S.C. 40101
7 note) is amended—

8 (1) in clause (i), by inserting “, or debris re-
9 moval during the immediate aftermath” after “Sep-
10 tember 11, 2001”;

11 (2) in clause (ii), by inserting “or debris re-
12 moval during the immediate aftermath” after
13 “crashes”; and

14 (3) in clause (iii), by inserting “or debris re-
15 moval during the immediate aftermath” after
16 “crashes”.

17 (b) EXTENSION OF DEADLINE FOR CLAIMS UNDER
18 SEPTEMBER 11TH VICTIM COMPENSATION FUND OF
19 2001.—Section 405(a)(3) of such Act is amended to read
20 as follows:

21 “(3) LIMITATION.—

22 “(A) IN GENERAL.—Except as provided by
23 subparagraph (B), no claim may be filed under
24 paragraph (1) after the date that is 2 years
25 after the date on which regulations are promul-
26 gated under section 407(a).

1 “(B) EXCEPTION.—A claim may be filed
 2 under paragraph (1), in accordance with sub-
 3 section (c)(3)(A)(i), by an individual (or by a
 4 personal representative on behalf of a deceased
 5 individual) during the period beginning on the
 6 date on which the regulations are updated
 7 under section 407(b) and ending on December
 8 22, 2031.”.

9 (c) REQUIREMENTS FOR FILING CLAIMS DURING
 10 EXTENDED FILING PERIOD.—Section 405(c)(3) of such
 11 Act is amended—

12 (1) by redesignating subparagraphs (A) and
 13 (B) as subparagraphs (B) and (C), respectively; and
 14 (2) by inserting before subparagraph (B), as so
 15 redesignated, the following new subparagraph:

16 “(A) REQUIREMENTS FOR FILING CLAIMS
 17 DURING EXTENDED FILING PERIOD.—

18 “(i) TIMING REQUIREMENTS FOR FIL-
 19 ING CLAIMS.—An individual (or a personal
 20 representative on behalf of a deceased indi-
 21 vidual) may file a claim during the period
 22 described in subsection (a)(3)(B) as fol-
 23 lows:

24 “(I) In the case that the Special
 25 Master determines the individual

1 knew (or reasonably should have
2 known) before the date specified in
3 clause (iii) that the individual suffered
4 a physical harm at a 9/11 crash site
5 as a result of the terrorist-related air-
6 craft crashes of September 11, 2001,
7 or as a result of debris removal, and
8 that the individual knew (or should
9 have known) before such specified
10 date that the individual was eligible to
11 file a claim under this title, the indi-
12 vidual may file a claim not later than
13 the date that is 2 years after such
14 specified date.

15 “(II) In the case that the Special
16 Master determines the individual first
17 knew (or reasonably should have
18 known) on or after the date specified
19 in clause (iii) that the individual suf-
20 fered such a physical harm or that the
21 individual first knew (or should have
22 known) on or after such specified date
23 that the individual was eligible to file
24 a claim under this title, the individual
25 may file a claim not later than the

1 last day of the 2-year period begin-
2 ning on the date the Special Master
3 determines the individual first knew
4 (or should have known) that the indi-
5 vidual both suffered from such harm
6 and was eligible to file a claim under
7 this title.

8 “(ii) OTHER ELIGIBILITY REQUIRE-
9 MENTS FOR FILING CLAIMS.—An indi-
10 vidual may file a claim during the period
11 described in subsection (a)(3)(B) only if—

12 “(I) the individual was treated by
13 a medical professional for suffering
14 from a physical harm described in
15 clause (i)(I) within a reasonable time
16 from the date of discovering such
17 harm; and

18 “(II) the individual’s physical
19 harm is verified by contemporaneous
20 medical records created by or at the
21 direction of the medical professional
22 who provided the medical care.

23 “(iii) DATE SPECIFIED.—The date
24 specified in this clause is the date on which

1 the regulations are updated under section
2 407(a).”.

3 (d) CLARIFYING APPLICABILITY TO ALL 9/11 CRASH
4 SITES.—Section 405(c)(2)(A)(i) of such Act is amended
5 by striking “or the site of the aircraft crash at Shanksville,
6 Pennsylvania” and inserting “the site of the aircraft crash
7 at Shanksville, Pennsylvania, or any other 9/11 crash
8 site”.

9 (e) INCLUSION OF PHYSICAL HARM RESULTING
10 FROM DEBRIS REMOVAL.—Section 405(c) of such Act is
11 amended in paragraph (2)(A)(ii), by inserting “or debris
12 removal” after “air crash”.

13 (f) LIMITATIONS ON CIVIL ACTIONS.—

14 (1) APPLICATION TO DAMAGES RELATED TO
15 DEBRIS REMOVAL.—Clause (i) of section
16 405(c)(3)(C) of such Act, as redesignated by sub-
17 section (c), is amended by inserting “, or for dam-
18 ages arising from or related to debris removal” after
19 “September 11, 2001”.

20 (2) PENDING ACTIONS.—Clause (ii) of such sec-
21 tion, as so redesignated, is amended to read as fol-
22 lows:

23 “(ii) PENDING ACTIONS.—In the case
24 of an individual who is a party to a civil
25 action described in clause (i), such indi-

vidual may not submit a claim under this title—

“(I) during the period described in subsection (a)(3)(A) unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 407(a); and

“(II) during the period described in subsection (a)(3)(B) unless such individual withdraws from such action by the date that is 90 days after the date on which the regulations are updated under section 407(b).”.

(3) AUTHORITY TO REINSTITUTE CERTAIN LAWSUITS.—Such section, as so redesignated, is further amended by adding at the end the following new clause:

“(iii) AUTHORITY TO REINSTITUTE CERTAIN LAWSUITS.—In the case of a claimant who was a party to a civil action described in clause (i), who withdrew from such action pursuant to clause (ii), and who is subsequently determined to not be an eligible individual for purposes of this

1 subsection, such claimant may reinstitute
2 such action without prejudice during the
3 90-day period beginning after the date of
4 such ineligibility determination.”.

5 **SEC. 203. REQUIREMENT TO UPDATE REGULATIONS.**

6 Section 407 of the Air Transportation Safety and
7 System Stabilization Act (49 U.S.C. 40101 note) is
8 amended—

9 (1) by striking “Not later than” and inserting
10 “(a) IN GENERAL.—Not later than”; and

11 (2) by adding at the end the following new sub-
12 section:

13 “(b) UPDATED REGULATIONS.—Not later than 90
14 days after the date of the enactment of the James Zadroga
15 9/11 Health and Compensation Act of 2008, the Special
16 Master shall update the regulations promulgated under
17 subsection (a) to the extent necessary to comply with the
18 provisions of title II of such Act.”.

19 **SEC. 204. LIMITED LIABILITY FOR CERTAIN CLAIMS.**

20 Section 408(a) of the Air Transportation Safety and
21 System Stabilization Act (49 U.S.C. 40101 note) is
22 amended by adding at the end the following new para-
23 graphs:

24 “(4) LIABILITY FOR CERTAIN CLAIMS.—

1 “(A) IN GENERAL.—Notwithstanding any
2 other provision of law, subject to subparagraph
3 (B), liability for all claims and actions (includ-
4 ing claims or actions that have been previously
5 resolved, that are currently pending, and that
6 may be filed through December 22, 2031) for
7 compensatory damages, contribution or indem-
8 nity, or any other form or type of relief, arising
9 from or related to debris removal, against the
10 City of New York, any entity (including the
11 Port Authority of New York and New Jersey)
12 with a property interest in the World Trade
13 Center on September 11, 2001 (whether fee
14 simple, leasehold or easement, or direct or indi-
15 rect) and any contractors and subcontractors
16 thereof, shall not be in an amount that exceeds
17 the sum of the following:

18 “(i) The amount of funds of the WTC
19 Captive Insurance Company, including the
20 cumulative interest.

21 “(ii) The amount of all available in-
22 surance identified in schedule 2 of the
23 WTC Captive Insurance Company insur-
24 ance policy.

1 “(iii) The amount that is the greater
2 of the City of New York’s insurance cov-
3 erage or \$350,000,000. In determining the
4 amount of the City’s insurance coverage
5 for purposes of the previous sentence, any
6 amount described in clauses (i) and (ii)
7 shall not be included.

8 “(iv) The amount of all available li-
9 ability insurance coverage maintained by
10 any entity, including the Port Authority of
11 New York and New Jersey, with a prop-
12 erty interest in the World Trade Center,
13 on September 11, 2001, whether fee sim-
14 ple, leasehold or easement, or direct or in-
15 direct.

16 “(v) The amount of all available liabil-
17 ity insurance coverage maintained by con-
18 tractors and subcontractors.

19 “(B) EXCEPTION.—Subparagraph (A)
20 shall not apply to claims or actions based upon
21 conduct held to be intentionally tortious in na-
22 ture or to acts of gross negligence or other such
23 acts to the extent to which punitive damages
24 are awarded as a result of such conduct or acts.

1 “(5) PRIORITY OF CLAIMS PAYMENTS.—Pay-
2 ments to plaintiffs who obtain a settlement or judg-
3 ment with respect to a claim or action to which
4 paragraph (4)(A) applies, shall be paid solely from
5 the following funds in the following order:

6 “(A) The funds described in clause (i) or
7 (ii) of paragraph (4)(A).

8 “(B) If there are no funds available as de-
9 scribed in clause (i) or (ii) of paragraph (4)(A),
10 the funds described in clause (iii) of such para-
11 graph.

12 “(C) If there are no funds available as de-
13 scribed in clause (i), (ii), or (iii) of paragraph
14 (4)(A), the funds described in clause (iv) of
15 such paragraph.

16 “(D) If there are no funds available as de-
17 scribed in clause (i), (ii), (iii), or (iv) of para-
18 graph (4)(A), the funds described in clause (v)
19 of such paragraph.

20 “(6) DECLARATORY JUDGMENT ACTIONS AND
21 DIRECT ACTION.—Any party to a claim or action to
22 which paragraph (4)(A) applies may, with respect to
23 such claim or action, either file an action for a de-
24 claratory judgment for insurance coverage or bring

1 a direct action against the insurance company in-
2 volved.”.

